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Commonwealth of Massachusetts  
THE  
PRISON OFFICERS' HAND BOOK  
1905

The seal of Harvard University, featuring a shield with the motto 'VERI TAS' (Truth) and the date '1636' at the top. The outer ring contains the text 'SIGILLUM ACADEMIAE HARVARDIANAE IN NOV. ANG. 1636'.

**FROM**

Board of Prison Commissioners.

2HEFD

(161)



Commonwealth of Massachusetts *Prison Commission*

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THE  
PRISON OFFICERS' HAND BOOK

CONTAINING

LAWS RELATIVE TO PRISONS; DIGEST OF THE DECISIONS OF  
THE SUPREME JUDICIAL COURT, ALSO OPINIONS OF THE  
ATTORNEY GENERAL CONCERNING PRISON MATTERS;  
LIST OF PENAL INSTITUTIONS, ETC.

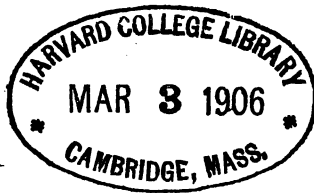
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PREPARED BY F. G. PETTIGROVE,  
*Chairman of the Board of Prison Commissioners.*



BOSTON:  
WRIGHT & POTTER PRINTING CO., STATE PRINTERS,  
18 POST OFFICE SQUARE.  
1905.

See 37.13.7 3



Board of Prison Commissioners.

[CHAP. 53.]

RESOLVE TO AUTHORIZE THE BOARD OF PRISON COMMISSIONERS TO PREPARE AND PRINT A MANUAL OF LAWS RELATIVE TO PRISONS.

*Resolved,* That there be allowed and paid out of the treasury of the Commonwealth a sum not exceeding four hundred dollars, to be expended by the board of prison commissioners in the preparation and printing of a manual to contain the laws relative to prisons and such other information as the commissioners may determine.

*Approved April 21, 1904.*

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APPROVED BY THE STATE BOARD OF PUBLICATION.

## INTRODUCTORY NOTE.

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Ten years ago the prison laws were arranged in a manual for the use of prison officials. Since that time all the statutes have been consolidated into the Revised Laws. Although it is but four years since the statutes were adopted in that form, a considerable number of changes have already been made in the laws governing prisons. Among these are the extension of the indeterminate sentence to the Reformatory Prison for Women, the regulation of the Temporary Industrial Camp for Prisoners, the establishment of a hospital prison for consumptives, the revision of the law relative to religious instruction of prisoners, and many others of importance.

This handbook is designed to include all the laws that concern the administration of prisons; and some sections that, taken alone, are not applicable to prison officers, are printed for the purpose of explaining other sections that depend upon them.

Entirely new legislation is printed in the same type as the Revised Laws, and all amendments are printed in italics. Sections that have been specifically repealed are omitted, and a few words repealed by implication are enclosed in brackets. The authority for every change is indicated in the margin.

The digest of the decisions of the supreme court embraces only such cases as clearly apply to the statutes of the present time; and there have been added to those cited in the Revised Laws a few decisions rendered since 1901. The opinions of the Attorney-General are not printed in full, but enough of each is given to indicate its character and scope.

F. G. P.

SEPTEMBER, 1905.





Commonwealth of Massachusetts.

LAWS RELATIVE TO PRISONS.

REVISED LAWS.

(AMENDMENTS PRINTED IN ITALICS.)

CHAPTER 222.

OF THE BOARD OF PRISON COMMISSIONERS.

SECTION 1. There shall be a board of prison commissioners, consisting of five persons, two of whom shall be women, and one of whom shall be appointed annually in June by the governor, with the advice and consent of the council, for a term of five years from the first Wednesday of July. The governor shall designate one member as chairman of the board, and he shall receive a salary of four thousand dollars a year. The other members of the board shall not receive any compensation; but they and the chairman shall be reimbursed their actual personal expenses which are incurred while they are engaged in the performance of their official duties. No member of the board shall be concerned or interested, directly or indirectly, in a contract, purchase or sale which is made on account of any prison. The board may delegate to the chairman any of its powers and duties, except the authority to release and transfer prisoners.

Board of  
prison com-  
missioners.  
1827, 118, §§ 1,  
2, 16.  
R. S. 144, §§ 2,  
3, 23.  
1850, 37.  
G. S. 179, §§ 8,  
36.  
1870, 370, §§ 1,  
10, 11.  
1879, 294, §§ 1,  
35.  
P. S. 219, §§ 1, 2.  
1893, 453.  
1901, 364, §§ 1, 2.  
[1 Op. A. G.  
487.]

SECTION 2. The commissioners shall appoint a secretary who shall not be a member of the board, but shall

Secretary and  
clerical assist-  
ance.  
1870, 370, § 11.

1877, 120, § 1.  
 1879, 294, §§ 2,  
 31.  
 P. S. 219, §§ 3,  
 39.  
 1886, 52.  
 1886, 275.  
 1888, 328.  
 1896, 431.

be its executive officer, and shall hold office during the pleasure of the commissioners. He shall receive from the commonwealth an annual salary of twenty-five hundred dollars, and his necessary expenses which are incurred in the performance of his official duties. The commissioners may elect one of their members secretary pro tempore who, in the absence of the secretary, shall perform his duties. They may expend annually for clerical assistance such sums as may be appropriated therefor by the general court.

Duties; rules.  
 1827, 118, § 7.  
 R. S. 144, § 9.  
 G. S. 179, § 14.  
 1870, 370, §§ 7,  
 9, 10.  
 1874, 885, § 12.  
 1879, 294, §§ 10,  
 12, 25, 35, 36.  
 1881, 90, § 8.  
 P. S. 219, §§ 14,  
 16.  
 1884, 255, § 28.  
 1895, 146, 195,  
 259.  
 [1 Op. A. G.  
 281, 290.]

SECTION 3. They shall have the general supervision of the state prison, of the Massachusetts reformatory, of the reformatory prison for women and of jails and houses of correction. They shall make rules for the direction of the officers of such institutions in the performance of their duties, for the government, discipline and instruction of the convicts therein, for the custody and preservation of the property connected therewith, for the supply of food, clothing and bedding in the state prison, Massachusetts reformatory and reformatory prison for women, for teaching prisoners who are committed to a jail or house of correction for six months or more to read and write, for securing proper exercise for unemployed sentenced prisoners in jails and houses of correction and for securing medical examination and supervision of prisoners in jails and houses of correction who are punished by solitary imprisonment. As soon as may be after such rules have been made, the commissioners shall submit copies thereof to the governor and council who may approve, annul or modify them. Jailers, keepers of houses of correction, county commissioners and the penal institutions commissioner of the city of Boston shall make no rules inconsistent with the aforesaid rules.

Visits to  
 prisons.  
 1827, 118, § 7.  
 R. S. 144, §§ 10,  
 11.  
 G. S. 179, §§ 15,  
 18.  
 1870, 370, § 10.  
 1874, 885, § 14.

SECTION 4. The full board shall visit the state prison, Massachusetts reformatory and the reformatory prison for women semi-annually and shall make a thorough examination thereof. The commissioners or one of them shall

also visit said prisons at least once in each month; and a majority of the board shall visit said prisons once in three months, for the purpose of inspecting the books and all the affairs thereof and of ascertaining whether the laws and rules are duly observed, the officers competent and faithful and the convicts properly governed and employed. They shall forthwith report to the governor and council any violation of law or neglect or omission of duty, which comes to their knowledge, by any officer of the state prison, Massachusetts reformatory or reformatory prison for women who holds his office by appointment of the governor and council.\*

SECTION 5. They or one of them shall visit each jail and house of correction at least once in six months, for the purpose of inspecting the books and all the affairs thereof and of ascertaining whether the laws and rules are duly observed, the officers competent and faithful and the convicts properly governed and employed; and, for this purpose, they shall have all the powers which county commissioners, or the penal institutions commissioner of the city of Boston, have as inspectors of prisons in their several counties.

SECTION 6. Clerks of courts shall annually, on or before the fifteenth day of October, make a report to the commissioners of all criminal cases which were commenced in the superior court in the several counties during the year ending on the thirtieth day of September, and of all criminal cases entered therein on appeal during such time. Clerks of police, district and municipal courts, or the justices if there are no clerks, and trial justices shall annually, at the same time, and for the same period, make a like report of all criminal cases in which such courts or justices have exercised jurisdiction, and shall state whether such jurisdiction was final or

1879, 294, §§ 14, 15, 35.  
P. S. 219, §§ 19, 20.

Visits to jails, etc.  
1870, 370, § 8.  
1879, 294, § 11.  
P. S. 219, § 15.

Reports by clerks of courts of criminal cases.  
1861, 216, § 2.  
1862, 289, § 3.  
G. S. 14, §§ 11, 12, 15.  
1881, 66.  
P. S. 219, §§ 34, 35, 37.  
1882, 226, § 1.

\* The governor and council do not now appoint any prison officers. The law was changed in this respect by chapter 364, Acts of 1901. See R. L., chap. 223, sections 4, 22 and 30.

otherwise. Blank forms for such reports shall be prepared and furnished by the prison commissioners. Whoever refuses or neglects to make the report required of him by this section shall forfeit two hundred dollars.

Monthly  
reports of  
arrests.  
1882, 226, § 2.  
1892, 290, § 3.

SECTION 7. The board of police of the city of Boston, city marshals or chiefs of police of other cities and of towns and every officer who makes an arrest in a city or town which does not have a city marshal or chief of police shall make monthly reports to the prison commissioners of the number of persons of each sex who have been arrested in their several cities and towns. Such reports shall be classified according to the offences. An officer who refuses or neglects to make such report shall forfeit fifty dollars.

Reports of  
commissioners  
to governor.  
1893, 428.

SECTION 8. The commissioners shall, at least once in six months, report in writing to the governor the condition of the state prison, the Massachusetts reformatory and the reformatory prison for women, and shall so report to the governor when, in their judgment, the conditions of administration, financial management or discipline in any of said institutions require executive action.

— to general  
court.  
1827, 118, § 7.  
R. S. 143, § 33;  
144, § 11.  
1840, 15, § 3.  
1848, 29, § 2.  
1857, 40, § 1.  
1858, 46, § 1.  
1859, 139, § 2.  
G. S. 178, § 68;  
179, § 18.  
1864, 303, § 1.  
1870, 370, § 12.  
1874, 385, § 22.  
1879, 294, §§ 33,  
35.  
1881, 66.  
P. S. 219, § 38.  
1882, 226, § 2.  
1884, 255, § 31.  
1887, 447, § 14.  
1901, 364, § 2.  
1905, 211, § 1.

SECTION 9. They shall annually, [in the first week] *on or before the third Wednesday* in January, make a full and complete report to the general court for the preceding year, showing fully and in detail the actual condition on the thirtieth day of September\* of the state prison, the Massachusetts reformatory, the reformatory prison for women and of each jail and house of correction, the number of inmates in each, such statistics from the reports required by section six as will show the results of criminal prosecutions and such statistics from the reports required by section seven, and by section eighty-five of chapter two hundred and seventeen, and such suggestions and recommendations as they may consider proper. The

\* Chapter 211 of the Acts of 1905 established a fiscal year for departments to end on November 30, and financial statements must refer to that period. The other matters in the report named in this section will, however, cover a year ending on September 30 as herein provided.

report shall state the industries which have been carried on in the institutions named in section forty-three of chapter two hundred and twenty-five during the year, the number of prisoners employed in each, the greatest and smallest number thereof at any one time, the kind and quantity of goods manufactured, the amount thereof sold to such institutions and otherwise and the prices received therefor. The report shall include the reports made to them by the warden of the state prison, the superintendent of the Massachusetts reformatory and of the superintendent of the reformatory prison for women. The report shall also contain estimates of the amounts which will be required by said prisons during the following year for salaries, subsistence, clothing, bedding, fuel, repairs and incidentals and a statement of the probable income of each prison from labor and all other sources.

## CHAPTER 223.

## OF THE STATE PRISON, THE MASSACHUSETTS REFORMATORY AND THE REFORMATORY PRISON FOR WOMEN.

## THE STATE PRISON.

*General Provisions.*

Purposes of  
state prison.  
1805, 113, §§ 1, 2.  
1811, 32, §§ 1, 2.  
1827, 118, § 10.  
R. S. 144, §§ 1,  
30.  
G. S. 179, § 1.  
1869, 334.  
1878, 62.  
P. S. 221, § 1.  
1884, 255, § 6.  
1901, 358.

SECTION 1. The state prison at Boston in the county of Suffolk shall be the general penitentiary and prison of the commonwealth in which all male persons who have been convicted of crime in a court of this commonwealth or in any court of the United States and who have been sentenced by them according to law to solitary imprisonment and confinement in the state prison at hard labor shall be securely confined and employed at hard labor; but a person who has been convicted and sentenced before a court of the United States need not be received in said prison unless the United States shall agree with the prison commissioners to pay all expenses incurred by the commonwealth in maintaining him therein.

Annual visita-  
tion by gov-  
ernor and  
council.  
1811, 32, § 5.  
1827, 118, § 17.  
R. S. 144, § 49.  
G. S. 179, § 5.  
P. S. 221, § 5.

SECTION 2. The governor and council shall visit the prison annually, and as much oftener as they may think proper, for the purpose of examining into its affairs and of ascertaining its condition. They shall inquire into all alleged abuses or neglects of duty and may make such alterations in the general discipline of the prison as they find necessary.

*Officers and Salaries.*

Officers.  
1805, 113, § 3.  
1811, 32, § 3.  
1827, 118, § 1.  
1829, 16, § 1;  
114, § 2.  
R. S. 144, §§ 2, 6.  
1860, 289, § 2.  
1862, 242.  
1867, 122, § 1.  
G. S. 179, § 7.  
1874, 133.  
1878, 269.

SECTION 3. The officers of the state prison shall be a warden, deputy warden, chaplain, physician and surgeon, clerk, engineer, assistant engineer, electrician, steward who shall be employed in the kitchen department of the prison, four turnkeys, as many watchmen, not exceeding forty-nine, and as many assistant watchmen, not exceed-

ing five, as the warden, subject to the approval of the prison commissioners, may find necessary. In certifying the names of persons eligible to appointment as assistant watchmen, the civil service commissioners shall certify the names of persons who are over the age of twenty-five and under the age of forty years.

1879, 294, §§ 34, 35.  
1881, 178, § 1.  
P. S. 221, § 6.  
1882, 203, § 1.  
1888, 264, § 1.  
1889, 412, § 1.  
1893, 456.  
1894, 477, § 2.  
1899, 245, §§ 1, 4.  
1900, 286, § 1.

SECTION 4. The warden shall be appointed by the prison commissioners, and shall hold his office during their pleasure. All other officers shall be appointed by the warden, and shall hold their offices during the pleasure of the warden.

1881, 178, § 2. P. S. 221, §§ 7, 8. 1882, 203, § 2.  
1887, 355. 1894, 477, § 2. 1899, 245, § 1. 1900, 286 § 1. 1901, 364, § 3.

Appoint-  
ments.  
1814, 156, §§ 1, 2.  
1827, 118, §§ 2, 3.  
1829, 114, § 2.  
R. S. 144, §§ 4-6.  
1867, 122, § 1.  
G. S. 179, §§ 9-11.  
1879, 294, § 18.

SECTION 5. The warden shall, before entering upon the performance of his official duties, give bond to the commonwealth in the sum of twenty thousand dollars, with sureties who shall be approved by the prison commissioners, conditioned faithfully to account for all money placed in his hands as treasurer and faithfully to perform the duties of warden. The approval of the sureties shall be indorsed on the bond, and it shall be filed in the office of the treasurer and receiver general.

Bond of  
warden.  
1811, 32, § 3.  
1827, 118, § 3.  
R. S. 144, § 15.  
G. S. 179, § 23.  
P. S. 221, § 17.  
1901, 364, § 3.

SECTION 6. The warden shall have the custody and control of all convicts in the prison and shall govern and employ them according to law, pursuant to their respective sentences and to the rules and regulations of the prison, until their sentences have been performed or they are otherwise discharged by due course of law. He shall also have the charge and custody of the prison, and of the land, buildings, furniture, tools, implements, stock, provisions and all other property belonging to it or within its precincts. He shall be treasurer of the prison, and shall receive and disburse all money paid by the commonwealth for the support thereof, and shall cause regular and complete accounts to be kept of all the property, expenses, income and business of the prison. He may, with the approval of the board of prison commissioners, expend not more than three hundred dollars annually for

General  
powers and  
duties of  
warden.  
1811, 32, § 8.  
1827, 118, §§ 3, 10.  
R. S. 144, §§ 16, 25, 30.  
G. S. 179, §§ 27, 28.  
P. S. 221, §§ 20, 21.  
1901, 224.



the entertainment of official and other visitors to the state prison, such expenditures to be paid out of the annual appropriations for the support of said prison.

Warden to propose alteration of rules, etc.  
1827, 118, § 3.  
R. S. 144, § 6.  
G. S. 179, § 28.  
1879, 294, § 34.  
P. S. 221, § 19.

SECTION 7. The warden shall from time to time, in writing, suggest to the commissioners such alterations in the rules and regulations as he considers advisable for the direction of the officers and for the government of the prison.

Vacancy in office of warden.  
1827, 118, § 4.  
R. S. 144, §§ 26, 27.  
G. S. 179, §§ 30, 31.  
1879, 294, § 34.  
P. S. 221, §§ 22, 23.

SECTION 8. If the office of warden is vacant, or if the warden is absent from the prison or is unable to perform the duties of his office, the deputy warden shall have the powers, perform the duties and be subject to the liabilities of the warden. If the office of warden becomes vacant, the commissioners may require the deputy warden to give a bond to the commonwealth in the sum of ten thousand dollars, with sureties who shall be approved by them, conditioned for the faithful performance of his duties as deputy warden and treasurer until a warden is appointed. After the approval of such bond, the deputy shall, so long as he performs the duties of the office, receive the salary of the warden in lieu of his salary as deputy warden. If the deputy warden does not give such bond when required, the commissioners may remove him from the office of warden and appoint a warden pro tempore, who shall give such bond, and shall have the power and authority, perform the duties and receive the salary of the warden until a warden is duly appointed and qualified.

Oath of subordinate officers.  
1893, 426, § 1.

SECTION 9. All subordinate officers of the state prison, before entering upon the performance of their official duties, shall take and subscribe the following oaths:

I, A. B., do solemnly swear that I will bear true faith and allegiance to the commonwealth of Massachusetts, and will support the constitution thereof. So help me, God.

I, A. B., do solemnly swear that I will obey the lawful orders of all my superior officers. So help me, God.

I, A. B., do solemnly swear and affirm that I will faithfully and impartially discharge and perform all the duties incumbent on me in

the office to which I have been appointed, according to the best of my abilities and understanding, agreeably to the rules and regulations of the constitution, the laws of the commonwealth and the rules provided in accordance with law for the government of the state prison. So help me, God.

The oaths may be administered by any officer who is authorized by law to administer an oath and a record thereof shall be in the possession of the warden.

SECTION 10. Each of said officers shall give bond to the commonwealth in the sum of one thousand dollars, with sureties, who shall be approved by the warden, conditioned to obey the rules of the prison and faithfully to perform his duties as such officer, and not to leave the service of the commonwealth, without giving at least ten days' notice in writing to the warden, unless sooner released by him. The approval of the sureties shall be indorsed on the bond, and it shall be filed in the office of the treasurer and receiver general.

Bond of subordinate officers.  
1893, 426, § 2.  
1901, 364.

SECTION 11. The warden and deputy warden shall reside constantly within the precincts of the prison. The deputy warden, clerk, watchmen, assistant watchmen and all other subordinate officers of the prison shall perform such duties in the charge and oversight of the prison, the care of its property and the custody, government, employment and discipline of the convicts, as the warden, in conformity to law and the rules and regulations of the prison, may require.

Residence of warden and deputy at prison.  
1827, 118, § 5.  
R. S. 144, § 28.  
G. S. 179, § 25.  
P. S. 221, § 18.  
1893, 245, § 2.  
1900, 286, § 2.

SECTION 12. The chaplain shall conduct divine service in the chapel of the prison, shall instruct the convicts in their moral and religious duties, visit the sick on suitable occasions, have charge of the school and library of the prison under the direction of the warden and shall devote his entire time to the duties of his office.

Duty of chaplain.  
1814, 156, § 1.  
1827, 118, § 6.  
R. S. 144, § 12.  
G. S. 179, § 19.  
1870, 243, § 1.  
P. S. 221, § 12.  
1901, 364.

SECTION 13. The physician and surgeon shall visit the hospital of the prison at least once each day, and as much oftener as may be necessary, shall prescribe for convicts who are ill, and shall attend to the regimen, clothing and

—of physician and surgeon.  
1814, 156, § 2.  
1827, 118, § 6.  
R. S. 144, § 13.  
G. S. 179, § 20.  
P. S. 221, § 13.

cleanliness of convicts who are in the hospital. He shall keep a regular journal of all admissions to the hospital, the time of admission, the nature of the disease, his prescriptions, the treatment of each patient and the time of his discharge from the hospital or of his death. The journal shall also contain entries of all orders given for supplies for the hospital department, specifying the articles ordered, and it shall remain at the prison. All such orders shall be in writing, and the warden shall provide the supplies so ordered.

Care and treatment of sick convicts.  
R. S. 144, § 14.  
G. S. 179, § 22.  
P. S. 221, § 15.

SECTION 14. If a convict complains of illness which requires medical aid, notice thereof shall be given to the physician, who shall visit the convict, and, if in his opinion the illness requires the removal of the convict to the hospital, the warden may order such removal, and the convict shall remain in the hospital until the physician determines that he may leave it without injury to his health.

Subsistence and diet in the hospital.  
1827, 118, § 15.  
R. S. 144, § 46.  
G. S. 179, § 60.  
P. S. 221, § 16.

SECTION 15. He shall have the direction of the subsistence and diet of the convicts in the hospital; but his order for all articles of comfort or indulgence which are not included in their regular hospital rations shall be in writing and for a term of not more than one week.

Same subject.  
1859, 254.  
G. S. 179, § 21.  
P. S. 221, § 14.

SECTION 16. He shall attend upon all insane convicts, and, if in his opinion they can be removed to the prison hospital without detriment or danger to the other patients or inmates of the prison, he shall order them to be so removed and shall see that they have sufficient daily exercise outside their cells or places of confinement.

Officers to have no other business.  
1827, 118, § 8.  
R. S. 144, § 7.  
G. S. 179, § 12.  
P. S. 221, § 9.

SECTION 17. Neither the warden nor any officer appointed by him or by him and the commissioners shall be employed in any business for private emolument or which does not pertain to the duties of his office.

Uniforms, etc.  
1873, 198, § 1.  
1875, 56, § 1.  
P. S. 221, § 10.

SECTION 18. The officers of the prison, except the clerk, physician and chaplain, shall, while on duty, wear such uniform, cap or badge as the warden may from time to time prescribe.

SECTION 19. The officers of the prison shall receive the following annual salaries: the warden, four thousand dollars; the chaplain, two thousand dollars; the physician and surgeon, *fifteen hundred* dollars; the deputy warden, two thousand dollars; the clerk, two thousand dollars; the engineer, fifteen hundred dollars; the assistant engineer, not more than one thousand dollars; the electrician, not more than twelve hundred dollars; the steward, twelve hundred dollars; each turnkey, twelve hundred dollars; each watchman who has been in the service of the prison for six years or more, twelve hundred dollars; each watchman who has been in said service for three years and for less than six years, one thousand dollars; each watchman who has been in said service for less than three years, eight hundred dollars; the assistant watchmen, not more than eight hundred dollars each. In fixing the rate of compensation of watchmen, previous service in any prison of the commonwealth shall be considered. No other perquisite, reward or emolument shall be allowed to or received by any of them, except that the warden and deputy warden shall be allowed sufficient house room, properly furnished, and fuel and light, for themselves and families. The compensation of the assistant engineer, of the electrician and of the assistant watchmen shall be fixed by the warden, with the approval of the prison commissioners.

Salaries.  
 1811, 52, § 12.  
 1814, 156, § 3.  
 1818, 19.  
 1827, 118, § 8.  
 1829, 114, § 3.  
 1832, 129, § 1.  
 1833, 67, § 1.  
 R. S. 144, § 8.  
 1864, 270.  
 1865, 334.  
 1867, 122, § 2;  
 190.  
 G. S. 179, § 13.  
 1867, 312.  
 1870, 243.  
 1871, 301.  
 1878, 269.  
 1881, 178, § 2.  
 P. S. 221, § 11.  
 1882, 203, § 3.  
 1884, 95.  
 1888, 264, § 2.  
 1889, 412, § 2.  
 1893, 455.  
 1894, 370.  
 1899, 245, § 3.  
 1900, 286, § 3.  
 1902, 454.

#### THE MASSACHUSETTS REFORMATORY.

SECTION 20. The Massachusetts reformatory at Concord in the county of Middlesex shall be the reformatory prison for the commonwealth in which all male persons under forty years of age, who have been convicted of crime in the courts of this commonwealth or of the United States and who have been duly sentenced or removed thereto shall be imprisoned and detained in accordance with the sentences or orders of said courts and the rules and regulations of said reformatory.

Massachusetts  
 reformatory.

Officers of the  
reformatory.  
1884, 255, § 19.  
1888, 335, § 1.  
1889, 408, § 1.  
1890, 255.  
1892, 333, § 1.  
1894, 477, § 2.

SECTION 21. The officers of the reformatory shall be a superintendent, deputy superintendent, chaplain, physician, clerk, engineer, four turnkeys and as many watchmen, not exceeding fifty-six, as the superintendent, subject to the approval of the prison commissioners, may consider necessary.

Appointment  
of superin-  
tendent, phys-  
ician, etc.  
1884, 255, §§ 20,  
21.  
1901, 364, § 3.

SECTION 22. The superintendent shall be appointed by the prison commissioners, and shall hold office during their pleasure. All other officers of said reformatory shall be appointed by the superintendent, and shall hold their offices during the pleasure of the superintendent.

Bond of super-  
intendent.  
1884, 255, § 24.  
1901, 364.

SECTION 23. The superintendent shall, before entering upon the performance of his official duties, give bond to the commonwealth in a sum and with sureties approved by the prison commissioners, conditioned faithfully to account for all money received by him and faithfully to perform his duties as superintendent.

Duties and  
powers of  
superintend-  
ent.  
1884, 255, §§ 23,  
24.  
1886, 323, § 6.  
1901, 224.

SECTION 24. The superintendent shall reside at all times within the precincts or dependencies of the reformatory, he shall have the custody and control of all prisoners committed to the reformatory, the management and direction of the reformatory, under the rules and regulations thereof, and the custody and control of the buildings and property of the commonwealth connected therewith. He shall receive and securely keep, according to the terms of the sentence, any male person who is sentenced to the reformatory by any court of the United States, or who is sentenced by such court to any other prison and removed to the reformatory. He shall purchase all necessary supplies for the reformatory, and shall receive and pay out all money advanced by the commonwealth for the support thereof. He shall cause full and accurate books of account of the property, expenses, income and business of the reformatory to be kept. He may, with the approval of the board of prison commissioners, expend not more than three hundred dollars annually for the entertainment of official and other visitors to the reformatory,

such expenditures to be paid out of the annual appropriations for the support of said reformatory.

SECTION 25. If the office of superintendent is vacant, or if the superintendent is absent from the reformatory or is unable to perform the duties of his office, the deputy superintendent shall have the powers, perform the duties and be subject to the liabilities of the superintendent. If the office of superintendent becomes vacant, the prison commissioners may require the deputy superintendent to assume the duties of superintendent, and to give bond to the commonwealth in the sum of ten thousand dollars, with sureties who shall be approved by them, conditioned for the faithful performance of his duties as deputy superintendent until a superintendent is appointed and faithfully to account for all money received by him as such. After the approval of said bond, the deputy superintendent shall, so long as he performs the duties of superintendent, receive the salary of that officer in lieu of his salary as deputy superintendent. If the deputy superintendent does not give such bond when required, the prison commissioners may relieve him from the duties of superintendent and appoint a superintendent pro tempore, who shall give such bond, and shall have the power and authority, perform the duties and receive the salary of the superintendent until a superintendent is duly appointed and qualified.

Deputy superintendent.  
Superintendent pro tempore.  
1884, 255, §§ 25, 26.

SECTION 26. The chaplain shall devote his whole time to the instruction of the prisoners and to the promotion of their moral and religious well-being.

Duties of chaplain.  
1884, 255, § 27.  
1890, 256.

SECTION 27. The officers of the reformatory shall receive the following annual salaries: the superintendent, thirty-five hundred dollars; the deputy superintendent, two thousand dollars; the chaplain, two thousand dollars; the physician, one thousand dollars; the clerk, two thousand dollars; the engineer, fifteen hundred dollars; each turnkey, twelve hundred dollars; each watchman who has been in the service of the reformatory for six years or

Salaries.  
1884, 255, § 22.  
1888, 335, § 2.  
1889, 408, § 2.  
1893, 333, § 2.

more, twelve hundred dollars; each watchman who has been in said service for three years and less than six years, one thousand dollars; each watchman who has been in said service for less than three years, eight hundred dollars. In fixing the rate of compensation of the officers as aforesaid, previous service in any prison of the commonwealth shall be considered. No other perquisite, reward or emolument shall be allowed to or received by any of the said officers, except that the superintendent and deputy superintendent shall be allowed sufficient house room, properly furnished, and fuel and light, for themselves and their families.

#### THE REFORMATORY PRISON FOR WOMEN.

Prison for women.  
1874, 385, § 3.  
P. S. 221, § 43.  
1887, 426, § 1.  
1896, 304.

SECTION 28. The reformatory prison for women at Sherborn in the county of Middlesex shall be the prison of the commonwealth in which all females who have been convicted of crime in the courts of the commonwealth or of the United States and who have been duly sentenced or removed thereto shall be imprisoned and detained in accordance with the sentences or orders of said courts and the rules and regulations of said prison.

Sentences to reformatory prison for women.  
1903, 209, § 1.

*When a woman is sentenced to be imprisoned in the reformatory prison for women the court or trial justice imposing the sentence shall not prescribe the limit of the sentence unless it is for a term of more than five years.*

Felony.  
1903, 209, § 2.

*A woman who is sentenced to said reformatory prison for a felony may be held therein for not more than five years, or if sentenced for a longer term than five years may be so held for such longer term.*

Misdemeanor.  
1903, 209, § 3.

*A woman who is sentenced to said reformatory prison for a misdemeanor may be held therein for not more than two years.*

Prison commissioners [may] shall make rules.  
1903, 209, § 4.

*With the approval of the governor and council the prison commissioners shall make rules for dealing with prisoners who are sentenced under this act, according to their behavior and industry.*

*When it appears to the prison commissioners that a prisoner who is sentenced to the reformatory prison for women under this act has reformed, they may issue to her a permit to be at liberty, upon such conditions as they shall prescribe, during the remainder of the term for which she might be held in said prison; and they may revoke said permit at any time before its expiration. The provisions of section one hundred and twenty-nine of chapter two hundred and twenty-five of the Revised Laws shall apply to all cases of revocation of a permit under this act.*

Permit to be at liberty may issue in certain cases.  
1903, 209, § 5.

R. L. 225, § 129, to apply.

SECTION 29. The officers of said prison shall be a superintendent, deputy superintendent, chaplain, physician, clerk, as many matrons, assistant matrons and deputy matrons, not exceeding twenty-six, as the superintendent and the commissioners may judge necessary. All said officers shall be women, except that the superintendent may be either a man or a woman.

Officers of prison.  
1874, 385, §§ 5, 8.  
1881, 43.  
P. S. 221, §§ 44, 47.

SECTION 30. The superintendent shall be appointed by the prison commissioners, and hold office during their pleasure. All other officers and employees [except the steward] shall be appointed by the superintendent, and shall hold their offices during the pleasure of the superintendent.

Appointment of superintendent, etc.  
1874, 385, §§ 6, 7.  
1879, 294, § 23.  
P. S. 221, §§ 45, 46.  
1901, 364, § 3.  
1904, 205.

SECTION 31. The superintendent shall, before entering upon the performance of his official duties, give bond to the commonwealth in the sum of ten thousand dollars, with sureties who shall be approved by the prison commissioners, for the faithful performance of his duties.

Bond.  
1874, 385, § 10.  
P. S. 221, § 49.  
1883, 267, § 1.  
1901, 364.

SECTION 32. The commissioners may, in behalf of the commonwealth, hold not more than one acre of land within the town of Sherborn, which may be used for the burial of prisoners who die in the prison.

Burial place for convicts.  
1882, 213.

SECTION 33. The superintendent shall reside at all times within the precincts or dependencies of the prison, shall have the custody and control of all prisoners committed thereto and shall govern and employ them accord-

Powers and duties of superintendent.  
1874, 385, § 10.  
P. S. 221, § 49.  
1883, 267, § 1.



ing to law, pursuant to their sentences and the rules and regulations of the prison. He shall have the management and direction of the prison, its servants and employees, and all its affairs, except as otherwise provided.

Control of  
property.  
1883, 267, § 1.

SECTION 34. He shall receive and disburse all money paid by the commonwealth for the support of said prison, shall purchase all supplies and all other articles needed for carrying on and managing the prison, shall have the custody and control of all property connected with or belonging to the prison and shall cause regular and complete books of accounts of all the property, expenses, income and business of the prison to be kept.

Deputy super-  
intendent.  
Bond.  
1883, 267, §§ 3, 4.

SECTION 35. If the superintendent is absent from the prison, or is unable to perform the duties of his office, the deputy superintendent shall have the powers, perform the duties and be subject to the liabilities of the superintendent. If the office of superintendent is vacant, the prison commissioners may require the deputy superintendent to perform the duties of superintendent and to give a bond to the commonwealth in the sum of ten thousand dollars, with sureties who shall be approved by them, conditioned for the faithful performance of her duties as deputy superintendent until a superintendent is appointed and to faithfully account for all money which comes into her hands as such. After the approval of her bond, she shall, so long as she performs the duties of superintendent, receive the salary of that officer in lieu of her salary as deputy superintendent. If she does not give such bond when required, the prison commissioners may remove her from office and appoint a superintendent pro tempore, who shall give such bond, and shall have such power and authority, perform such duties and receive such salary until a superintendent is duly appointed and qualified.

Duties of  
chaplain.  
1884, 43, § 1.

SECTION 36. The chaplain shall, in addition to her other duties, act as teacher and, as such, have charge of the prison school and of the instruction of the prisoners,

under rules from time to time established by the superintendent and approved by the prison commissioners.

SECTION 37. [Repealed by chapter 205, Acts of 1904.] Steward.  
1883, 267, § 2.  
1904, 205.

SECTION 38. The superintendent may appoint a watchman to protect the waters of Washakum pond in the towns of Framingham and Ashland, and he shall have the powers of a district police officer. Watchman for  
Washakum  
pond.  
1888, 370, § 3.  
1896, 275.

SECTION 39. The officers of the prison shall receive the following annual salaries: the superintendent, two thousand dollars; the deputy superintendent, one thousand dollars; the chaplain, one thousand dollars; the physician, one thousand dollars; the clerk, eight hundred dollars; each matron, four hundred dollars; each deputy matron, three hundred and fifty dollars; each assistant matron, three hundred dollars. No other perquisite, reward or emolument shall be allowed to or received by any of them, except that all said officers may reside at said prison or its dependencies at the public charge. Salaries.  
1874, 385, § 8.  
P. S. 221, § 47.  
1884, 43, § 3.  
1887, 341.  
1888, 327.  
1897, 320.

#### PRISON CONTRACTS.

SECTION 40. All bills contracted by the warden of the state prison, the superintendent of the Massachusetts reformatory or the superintendent of the reformatory prison for women for the maintenance of said institutions and the pay rolls of salaries of officers and employees thereof shall, before payment, be approved by a majority of the prison commissioners. Approval of  
bills.  
1879, 294, § 18.  
P. S. 221, § 54.  
1883, 267, § 5.  
1888, 337.  
1889, 294

SECTION 41. All contracts on account of said prisons shall be made by the warden or superintendents, respectively, in writing, and, when approved in writing by the commissioners, shall be binding. The warden and superintendents, or their successors, may sue or be sued upon any contract made in accordance with the provisions of this chapter. No such suit shall abate by reason of said offices becoming vacant, but the successor of either of Contracts.  
1813, 47, § 1.  
1827, 118, § 3.  
R. S. 144, § 19.  
G. S. 179, § 32.  
1879, 294, § 19.  
P. S. 221, § 55.  
1883, 267, § 5.  
1888, 403, § 7.  
11 Met. 138.  
11 Cush. 510.

said officers, pending such suit, may, and upon motion of the adverse party and notice shall, prosecute or defend it.

Arbitration of  
controversies.  
R. S. 144, § 20.  
G. S. 179, § 33.  
1879, 294, § 20.  
P. S. 221, § 56.  
1883, 267, § 5.

SECTION 42. The warden or superintendent may submit any controversy relative to a contract made by him or an action pending on such contract to the final determination of arbitrators or referees who shall be approved by the commissioners.

Contracts for  
supplies by  
the year.  
1821, 108, §§ 3, 4.  
1825, 89, § 6.  
1827, 118, § 16.  
R. S. 144, § 21.  
G. S. 179, § 34.  
1879, 294, § 21.  
P. S. 221, § 57.  
1883, 267, § 5.

SECTION 43. If, in the opinion of the commissioners, it can be advantageously done, the principal articles purchased for the use of said prisons shall be contracted for by the year. The warden or superintendent, as the case may be, shall publish notice in at least two newspapers a sufficient time for the information of the public of the articles wanted, their quantity and quality, the time and manner of delivery and the period during which proposals therefor will be received.

Proposals to  
be in writing,  
etc.  
1821, 108, § 3.  
1827, 118, § 16.  
R. S. 144, §§ 22,  
23.  
G. S. 179, § 35.  
1879, 294, § 22.  
P. S. 221, § 58.  
1883, 267, § 5.

SECTION 44. Such proposals shall be in writing and sealed, and on the day appointed they shall be opened by the warden or superintendent in the presence of the commissioners, who shall cause them to be entered in a book and compared. The persons who offer the best terms, with satisfactory security for the performance, shall be entitled to the contract unless it appears to the commissioners that it is not for the interest of the commonwealth to accept any of the proposals. In such case, no offer shall be accepted, and the warden or superintendent, with the consent of the commissioners, may contract for any of the articles wanted in a way which shall be for the best interests of the commonwealth. Every contractor shall give bond in a reasonable sum, with satisfactory surety, for the performance of his contract.

Bills to be  
taken of all  
purchases,  
services, etc.  
R. S. 144, § 24.  
G. S. 179, § 37.  
P. S. 221, § 24.

SECTION 45. The warden or superintendent shall, at the time supplies for the prison are delivered, take bills of the quantity and price thereof, which the clerk or such officer as the warden or superintendent directs shall compare with the articles delivered and, if they are correct, shall enter them with the date upon a book to be kept for

the purpose. Bills of all services rendered for the prison shall be taken and entered in like manner. If a bill for supplies or services is incorrect, the clerk shall not enter it, but shall inform the warden or superintendent, that the error may be corrected.

#### APPROPRIATIONS.

SECTION 46. An annual appropriation shall be made for the support of said prisons. The salaries and pay of officers and employees and all bills for supplies and other expenditures for said prisons shall be paid monthly from the treasury of the commonwealth, having first been certified by the auditor, upon schedules, enumerating the bills and pay rolls and accompanied by vouchers. The name and position of each officer, the amount of his pay and the amount due to him shall be on the pay roll, which, with the bills, shall be certified by the warden or by the superintendent, as the case may be. A record in full of the pay rolls and bills shall be made by the clerk in a book kept for the purpose at each prison and the originals shall be deposited with the auditor as vouchers.

Annual appropriation.  
Salaries, etc.,  
to be paid  
monthly.  
1864, 303, §§ 2, 3.  
1874, 385, §§ 23,  
24.  
P. S. 221, §§ 59,  
60.  
1883, 267, § 5.  
1884, 255, § 30.  
1888, 403, § 7.

There shall be allowed and paid to (said) *the* town of Framingham, from and after the first day of January in the year eighteen hundred and ninety-three, the sum of six hundred dollars annually, in full payment of the percentage which the Commonwealth shall pay toward the annual expense of maintaining and operating said system of sewage disposal,\* as long as there shall be discharged into said system the sewage from said reformatory prison for women.

Disposal of  
sewage at re-  
formatory  
prison for  
women.  
Annual allow-  
ance to town of  
Framingham.  
1892, 211, § 2.

\* Constructed by the town of Framingham, in accordance with chapter 403 of the Acts of 1887.

## CHAPTER 224.

## OF JAILS AND HOUSES OF CORRECTION.

## INSPECTION OF PRISONS.

Inspectors of  
prisons;  
duties.  
1834, 151, § 15.  
R. S. 143, §§ 28,  
29.  
1843, 61, § 2.  
1845, 221.  
G. S. 178, §§ 62,  
64.  
1864, 811, § 1.  
P. S. 220, §§ 72,  
73.

SECTION 1. The county commissioners shall be inspectors of the prisons in their counties. They shall twice in each year, at intervals not exceeding eight months, themselves or by a committee of two of their members, visit all the prisons in their county, and fully examine into everything relative to the government, discipline and police thereof, and as soon as may be after each inspection, the committee shall make and subscribe a detailed report to the commissioners of the condition of each prison as to health, cleanliness and discipline at the time of inspection, the number of prisoners confined there within the preceding six months or since the last inspection, the causes of confinement, the number of prisoners usually confined in one room, the distinction, if any, usually observed in the treatment of the different classes of prisoners, the punishments inflicted, any evils or defects in the construction, discipline or management of such prisons, the names of prisoners who have been discharged or pardoned or who have died or escaped; and any violation or neglect of law relative to such prisons, with the causes, if known, of the violation or neglect.

Access to  
books, ac-  
counts, etc.  
R. S. 143, § 31.  
G. S. 178, § 66.  
P. S. 220, § 74.

SECTION 2. When the commissioners or any of them visit any of said prisons, for the purpose of inspection or otherwise, the sheriff, master, keeper or other officer who has charge thereof shall admit them, when required, into every apartment of such prison, exhibit all books, precepts, documents, accounts and papers relative to the affairs of the prison or to the detention or confinement of any person therein, which may be required, and afford to them such aid as may be requested in the performance

of their duties. The commissioners or their committee may examine under oath, administered by one of them, either by interrogatories in writing to be answered in writing and subscribed, or otherwise as they may direct, any officer, keeper or other person relative to the affairs or management of any prison, and they may also converse with any of the prisoners apart, and without the presence of any officer or keeper.

SECTION 3. If it appears to the commissioners, from the report of their committee or otherwise, that any provision of law relative to prisons has been violated or neglected in their county, they shall forthwith give notice thereof to the district attorney.

Notice to district attorney of violation of law.  
R. S. 143, § 32.  
G. S. 178, § 67.  
P. S. 220, § 75.

#### JAILS.

SECTION 4. Jails shall be used for the detention, —

First, Of persons charged with crime and committed for trial.

Second, Of persons committed to secure their attendance as witnesses upon the trial of criminal causes.

Third, Of persons committed pursuant to a sentence upon conviction of crime or for any cause authorized by law.

Fourth, Of persons detained or committed by the courts of the United States.

SECTION 5. If there are several jails in a county, the sheriff may cause the prisoners to be confined in any of them.

G. S. 178, § 2.

P. S. 220, § 2.

Jails, purposes of.  
R. S. 143, § 1.  
G. S. 178, § 1.  
P. S. 220, § 1.  
14 Gray, 241.  
133 Mass. 400.

SECTION 6. If a prisoner escapes by reason of the insufficiency of the jail, whereby the sheriff is made liable to a party at whose suit the prisoner was committed, or to whose use any forfeiture was adjudged against him, the county shall reimburse the amount recovered by such party of the sheriff on account of the escape.

Sheriff may remove prisoners.  
R. S. 143, § 43.

Reimbursement of sheriff for damages for escape.  
1700-1, 2, § 9.  
1784, 41, § 1.  
R. S. 14, § 12.  
G. S. 178, § 4.  
P. S. 220, § 5.

SECTION 7. The jailers of the county shall, at the opening of each sitting of the superior court at which criminal business may be transacted, return to the court

Return of list of prisoners to court.  
C. L. 128, § 2.  
1700-1, 2, § 1.

1784, 41, § 5.  
1836, 4, § 19.  
G. S. 178, § 5.  
P. S. 220, § 6.

a list of all prisoners in their custody, specifying the causes for which, and the persons by whom, they were committed, and produce and exhibit therewith, for the inspection of the court, their calendars of prisoners, and return a like list of the persons committed during the session of the court, in order that the court may take cognizance and make deliverance according to law of the prisoners committed for crimes within its jurisdiction. Jailers who neglect to make such reports or to exhibit their calendars shall be punished by a fine at the discretion of the court.

#### HOUSES OF CORRECTION.

Houses of correction, how provided, etc.  
C. L. 127, § 2.  
1699-1700, 8, § 1.  
1787, 54, § 1.  
1818, 123, § 5.  
1834, 151, § 1.  
R. S. 14, § 9;  
143, § 2.  
1848, 324, § 2.  
1854, 448, § 33.  
G. S. 178, § 6.  
P. S. 220, § 7.  
1885, 266, § 6.  
101 Mass. 24.  
116 Mass. 194.

SECTION 8. The county commissioners in each county, except Dukes County, shall, at the expense of the county, provide a house or houses of correction, suitably and efficiently ventilated, with convenient yards, workshops and other suitable accommodations adjoining or appurtenant thereto, for the safe keeping, correction, government and employment of offenders who may be legally committed thereto by the courts and magistrates of this commonwealth or of the United States.

Enclosed yards.  
1834, 151, § 1.  
R. S. 143, § 3.  
G. S. 178, § 7.  
P. S. 220, § 8.

SECTION 9. The yards shall be of sufficient extent for the convenient employment of the persons confined therein, and shall be enclosed by fences of sufficient height and strength to prevent escapes and to prevent all persons who are without from access to or communication with any person confined therein. If such house of correction is not provided, the jail or a part thereof may be used for that purpose; but if so used, it shall be provided with a sufficient yard, so enclosed.

Sentence to house of correction in a county.  
1860, 249, § 7.  
G. S. 178, § 8.

SECTION 10. The sentence of prisoners to a house of correction shall be executed in any house of correction in the county.

1860, 164, § 1. 1862, 127, § 1. P. S. 220, § 10.

County commissioners, etc., to enforce rules, inspect accounts, etc.  
1834, 151, § 6.

SECTION 11. The county commissioners of the several counties and the penal institutions commissioner of the city of Boston shall cause the rules which are established

for the management of the house of correction and for the government of the prisoners therein to be strictly observed, shall examine all accounts of the master relative to the expenses of the institution and shall keep a record of their official proceedings relative thereto.

R. S. 143, § 11.  
1857, 35.  
G. S. 178, § 12.  
1877, 147.  
P. S. 220, § 12.  
1897, 395.

SECTION 12. The sheriff shall report to the superior court, at each sitting at which criminal business may be transacted, the number of prisoners sentenced to labor in houses of correction in the county who are employed and also the number who are not employed, with the reasons why they are not employed.

Sheriff to report to court number of employed.  
1875, 83.  
P. S. 220, § 16.

#### HOUSES OF REFORMATION FOR JUVENILE OFFENDERS.

SECTION 13. County commissioners may, in their discretion, and at the expense of the county, establish houses of reformation, to which offenders under the age of sixteen years may be sentenced for offences which are punishable with imprisonment or for the non-payment of fine.

Houses of reformation for offenders under age of sixteen years.  
1865, 208, § 2.  
P. S. 220, § 18.

SECTION 14. They shall make regulations for the government and control of such houses of reformation, and for the appointment of teachers and officers thereof, and may at any time discharge any person who is sentenced thereto. In the county of Suffolk, the trustees for children shall, subject to the approval of a justice of the court which imposed the sentence, have like authority to discharge persons from the house of employment and reformation for juvenile offenders which is established in the city of Boston, and may, subject to like approval, remit the punishment of and place upon probation any person who may have been committed to said house of employment and reformation, upon such conditions as they consider proper.

— how to be governed.  
Discharges.  
1825, 182, § 5.  
1857, 35, § 1.  
1865, 208, § 4.  
1879, 64, § 1.  
P. S. 220, §§ 20, 21.  
1889, 245.  
1895, 449, § 16.  
1897, 395, § 3.

SECTION 15. If any person whose punishment has been remitted and who is placed upon probation as provided by the preceding section, in the opinion of said trustees for children, violates any of the conditions of such remission or probation, said trustees may at any time,

Arrest on violation of conditions.  
1879, 64, § 2.  
P. S. 220, § 22.  
1897, 395, § 3.



without further warrant or authority, cause him to be arrested, and to be remanded and confined for the unexpired term of his sentence.

PROVISIONS RELATIVE TO JAILS, HOUSES OF CORRECTION  
AND PRISONERS.

Sheriff to have custody of jail, etc.  
1859, 249, § 1.  
G. S. 178, § 19.  
1865, 241.  
P. S. 220, § 23.  
1897, 395.  
161 Mass. 391.

SECTION 16. The sheriff shall have the custody and control of the jails in his county and, except in the county of Suffolk, of the houses of correction therein, and of all prisoners who may be committed thereto, and shall keep the same himself or by his deputy as jailer, master or keeper and shall be responsible for them. The jailer, master or keeper shall appoint subordinate assistants, employees and officers, and shall be responsible for them. In the county of Suffolk, the penal institutions commissioner shall appoint a master of the house of correction, who shall hold office during the pleasure of said commissioner.

Compensation of sheriff for care of prisoners, etc.  
1830, 110, § 6.  
R. S. 14, § 92.  
G. S. 178, § 21.  
P. S. 220, § 25.  
163 Mass. 34.

SECTION 17. The sheriff shall receive such compensation from the county, not less than twenty dollars a year, for the safe keeping of the prisoners who may be committed to his custody, as the county commissioners, or, in the county of Suffolk, the mayor and aldermen, determine. He shall not receive any rent or emolument from the jailers and keepers of the houses of correction for the use and occupation of the dwelling houses which are provided for them by the county.

— of officers, assistants, etc.  
1859, 249, § 2.  
G. S. 178, § 22.  
1864, 270, § 1.  
P. S. 220, § 26.  
163 Mass. 34.

SECTION 18. The county commissioners shall establish fixed salaries for all officers, assistants and employees of jails and houses of correction, which shall be in full compensation for all their services, and for which they shall devote their whole time, not exceeding the time limited by the provisions of section twenty, to the performance of their duties, unless released therefrom by the commissioners.

Inadequate compensation, how determined.

SECTION 19. A sheriff, master, keeper or jailer who considers any such salary inadequate may present his pe-

tition to the superior court, which, after notice to the chairman of the county commissioners and a hearing, shall fix the salary and pass any appropriate order.

1869, 249, § 3.  
G. S. 178, § 23.  
P. S. 220, § 27.  
145 Mass. 500.

SECTION 20. The hours of labor for employees of county jails and houses of correction shall not exceed sixty in each week. A county officer who violates the provisions of this section by requiring an employee to work more than sixty hours in a week shall be punished by a fine of not less than twenty-five nor more than fifty dollars for each offence.

Hours of labor.  
1800, 425.

*Every employee of a house of correction or county jail whose duties require his presence at such house of correction or county jail seven days a week shall be given at least two days of vacation in each month, which shall be in addition to any annual vacation now or hereafter allowed to said employees, and shall be without loss of pay.*

Certain employees of jails, etc., to be allowed two days off in every month.  
1906, 231.

SECTION 21. The keeper of a jail, master of a house of correction or superintendent of a workhouse to which a female has been committed shall forthwith transmit to the secretary of the prison commissioners such an abstract of the mittimus upon which she has been committed as said commissioners may require.

Abstract of mittimus committing female to be sent to prison commissioners.  
1879, 294, § 26.  
P. S. 220, § 30.

SECTION 22. If a prisoner dies in the jail or house of correction, the sheriff or keeper shall deliver the body to his relations or friends if they request it; otherwise, he shall bury it in the common burying ground and the expense thereof shall be paid by the city or town in which the deceased had a legal settlement, if any; otherwise, by the county.

Burial of deceased prisoner.  
1811, 102, § 1.  
R. S. 14, § 87.  
G. S. 178, § 26.  
P. S. 220, § 31.

SECTION 23. Upon the expiration of the term of office of a sheriff, or upon his resignation or removal from office, he shall deliver to his successor all the prisoners who are in his custody, but he shall retain the keeping of the jails and houses of correction and of the prisoners therein under his care until his successor has been elected or appointed and qualified.

Sheriff to deliver prisoners to successor.  
1783, 44, § 4.  
R. S. 14, § 84.  
G. S. 178, § 27.  
P. S. 220, § 32.

Upon death of  
sheriff, jailer  
to continue in  
office until, etc.  
1808, 46, § 1.  
R. S. 14, § 86.  
G. S. 178, § 28.  
P. S. 220, § 83.

SECTION 24. Upon the death of a sheriff, the jailer, master or keeper appointed by him shall continue in office and retain the custody and control of the jail or house of correction and of all prisoners therein until a successor to the deceased sheriff has been appointed or elected and qualified, or until the governor, with the advice and consent of the council, removes him and appoints another. The jailer, master or keeper appointed by the governor shall give bond with sureties as the governor directs and approves for the faithful performance of the duties of his office.

Care of jail,  
etc.  
1817, 149, § 1.  
1834, 151, § 11.  
R. S. 143, § 38.  
G. S. 178, § 31.  
P. S. 220, § 36.  
1886, 226.

SECTION 25. The keeper of each jail and the master of each house of correction shall, at the expense of the county, cause it to be constantly kept in as cleanly and healthful a condition as may be. No permanent vault shall be used in any apartment. Every room occupied by a prisoner shall be furnished with a suitable bucket, with a cover made to shut tight, for the necessary accommodation of such prisoner, and such bucket, when used, shall be emptied daily and shall be constantly kept in good order.

Removal of  
prisoners in  
case of pesti-  
lence.  
R. S. 143, § 41.  
G. S. 178, § 48.  
P. S. 220, § 51.

SECTION 26. If disease breaks out in a jail or other prison, which, in the opinion of the inspectors of the prison, may endanger the lives or health of the prisoners to such a degree as to render their removal necessary, the inspectors may designate in writing a suitable place within the same county, or any prison in a contiguous county, as a place of confinement for such prisoners. Such designation, having been filed with the clerk of the superior court, shall be a sufficient authority for the sheriff, jailer, master or keeper to remove all the prisoners who are in his custody to the place designated and there to confine them until they can be safely returned to the place whence they were removed. Any place to which the prisoners are so removed shall, during their imprisonment therein, be deemed a prison of the county in which they were originally confined, but they shall be

under the care, government and direction of the officers of the county in which they are confined.

SECTION 27. If a jail or other prison or any building near thereto is on fire and the prisoners are exposed to danger thereby, the sheriff, jailer or other person who has charge of the prison may remove them to a safe place, and there confine them as long as may be necessary to avoid the danger, and such removal and confinement shall not be deemed an escape of the prisoners.

Removal of  
prisoners  
in case of  
danger from  
fire.  
R. S. 143, § 42.  
G. S. 178, § 49.  
P. S. 220, § 52.

#### EXPENSE OF SUPPORTING PRISONERS.

SECTION 28. The county commissioners shall, except in the county of Suffolk, without extra charge or commission to themselves or to any other person, procure or cause to be procured all necessary supplies for the jails and houses of correction, to be purchased and provided under their direction and at the expense of the county.

County com-  
missioners to  
procure sup-  
plies.  
1859, 249, § 4.  
G. S. 178, § 50.  
P. S. 220, § 53.

SECTION 29. The expense of keeping and maintaining convicts sentenced to imprisonment in the jail or house of correction, of the keeping of persons charged with or convicted of crime and committed for trial or sentence, and of prisoners committed on mesne process or execution, so long as the fees for their board are paid by the defendant or debtor, plaintiff or creditor, shall be paid by the county after the accounts of the keeper or master have been settled and allowed by the county commissioners, or, in the county of Suffolk, by the auditor of the city of Boston; and no allowance therefor shall be made by the commonwealth.

Expense of  
supporting  
convicts.  
1819, 163.  
1826, 142, § 1.  
1834, 151, § 18.  
R. S. 143, § 27.  
1839, 156.  
G. S. 178, § 51.  
P. S. 220, § 54.  
1885, 266, § 6.  
8 Met. 513.

SECTION 30. The county commissioners and the mayor of the city of Boston may order such amounts of money as may from time to time be necessary to be advanced from the treasuries of their counties or city to the master of the house of correction or keeper of the jail, for the purpose of providing such tools, materials and other things as may be required for the government, restraint and safe keeping of the convicts. Such amounts shall be expended

Advances for  
expenses.  
1834, 151, § 18.  
R. S. 143, §§ 23,  
24.  
1839, 146, § 1.  
1854, 448, § 33.  
G. S. 178, § 52.  
P. S. 220, § 55.

by him under the direction of the officers who order the advancement and shall be accounted for by him to them.

Clothing, bedding and fuel.  
1834, 151, § 12.  
R. S. 143, § 44.  
G. S. 178, § 54.  
P. S. 220, § 57.

SECTION 31. The keeper of the jail and the masters of the houses\* of correction in the county of Suffolk shall, at the expense of the county, provide necessary fuel, bedding and clothing for all prisoners in their custody upon charge or conviction of crime against the commonwealth, and shall present to the auditor of the city of Boston a full account of their charges so incurred, or incurred for necessary furniture for said institutions, which, upon the allowance thereof by the auditor, shall be paid by the county.

Keeper to obey orders for furnishing specific rations.  
1834, 151, § 20.  
R. S. 143, § 45.  
1854, 448, § 33.  
G. S. 178, § 56.  
P. S. 220, § 58.

SECTION 32. If the commissioners, or, if the mayor of the city of Boston, direct specific rations or articles of food, soap, fuel or other necessities to be furnished to the prisoners, the keeper or master shall conform to such direction; and if he refuses or neglects to furnish the same, he shall be subject for a first and second offence to the penalties prescribed by section twenty of chapter two hundred and ten for the offences therein mentioned.

Compensation of master of house of correction in Suffolk.  
1834, 151, § 9.  
R. S. 143, § 14.  
1857, 35.  
G. S. 178, § 56.  
P. S. 220, § 59.

SECTION 33. The penal institutions commissioner in the city of Boston shall from time to time determine what amount the master of the house of correction for the county of Suffolk shall receive for the board of the persons committed to his custody, and the city council of the city of Boston shall determine what further compensation, in addition to such board, he shall receive for his services.

[Sections 34, 35, 36 and 37 relative to the recovery for support of poor convicts were repealed by chapter 211 of the Acts of 1904.]

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\* There is now but one house of correction in Suffolk county, — at Deer Island. The house of correction at South Boston was closed in October, 1902.

## CHAPTER 225.

## OF THE OFFICERS AND INMATES OF PENAL AND REFORMATORY INSTITUTIONS, AND OF PARDONS.

## OFFICERS.

SECTION 1. The warden of the state prison, the superintendent of the Massachusetts reformatory and of the reformatory prison for women, respectively, and the masters and keepers of jails, houses of correction and of all other penal or reformatory institutions shall keep full and accurate records of all prisoners who may be committed thereto, maintained therein or discharged therefrom.

Record of commitments, etc.  
1874, 264, § 1;  
385, § 19.  
P. S. 219, § 31.

SECTION 2. They shall keep a record of all money or other property which is found in the possession of prisoners who are committed to such institutions; and shall be responsible to the commonwealth for the safe keeping and delivery of said property to said prisoners or their order upon or at any time before their discharge from prison.

— of property in possession of prisoners.  
1861, 188.  
P. S. 222, § 1.

SECTION 3. They shall keep a record of the name and number or other sufficient designation of every person punished by solitary imprisonment, the day and hour when he was placed in solitary imprisonment, the day and hour when released, the offence and such remarks as may be necessary to complete the record. The prison commissioners shall ascertain whether the requirements of this section are observed.

— of solitary imprisonment.  
1876, 61, §§ 2, 3.  
P. S. 222, §§ 4, 5.

SECTION 4. The jailer, keeper or master of each jail and house of correction shall keep in a bound book an exact calendar of all prisoners committed thereto, in which shall be recorded the names of all prisoners, their places of abode and additions, the time, cause and authority of their commitment, and, if they have been committed upon

Calendar of prisoners in jail, etc.  
1784, 41, § 4.  
R. S. 14, § 83.  
1859, 139, § 5.  
G. S. 178, § 24.  
P. S. 220, § 28.  
6 Allen, 477.

a sentence on conviction of crime, a description of their persons, and such facts as, with the entries in the prison book, will enable the sheriff or penal institutions commissioner of the city of Boston to make the reports to the prison commissioners which are required by law. He shall record in the same book the time and authority for the release of every prisoner who is released and the time and manner of the escape of a prisoner who escapes. A jailer, master or keeper who neglects to keep such calendar or to enter such facts therein shall forfeit one hundred dollars, which shall be recovered by the county commissioners in the name of the county, or, in the county of Suffolk, by the penal institutions commissioner in the name of the city of Boston, and shall be expended by them or him for the relief of discharged prisoners.

SECTION 5. All process to be served within the precincts of any penal or reformatory institution shall be directed to and served by the warden, superintendent, master or keeper thereof or his deputy.

SECTION 6. All warrants, mittimus, processes and other official papers by which a prisoner is committed or released, or attested copies thereof, shall contain a detailed statement of the fees of the officer for making the commitment, shall be regularly filed in chronological order and shall be safely kept with the calendar in a suitable box for that purpose. Upon the expiration of the sheriff's commission, his death, resignation or removal from office, it shall be delivered to his successor; and in default thereof, the sheriff or his executor or administrator shall forfeit two hundred dollars.

SECTION 7. Each jailer and master of a house of correction shall have a prison book, in which he shall keep an account of the value of the labor of the prisoners, of the salaries of officers and of articles furnished for the support of the prisoners, the quantity of such articles, of whom bought and the price paid, classified as follows: cost of provisions, including the portion consumed by the family of the jailer or master; cost of clothing; cost of

Service of  
process in  
prisons.  
1811, 32, § 3.  
1827, 118, § 3.  
R. S. 144, § 25.  
G. S. 179, § 3.  
P. S. 221, § 3.

Filing of war-  
rants, etc.  
1784, 41, § 6.  
R. S. 14, § 85.  
G. S. 178, § 25.  
P. S. 220, § 29.  
1890, 328, § 1.

Prison book,  
etc.  
1699-1700, 8, § 7.  
1818, 123, § 3.  
1848, 276, § 2.  
1859, 139, § 5.  
G. S. 178, § 61.  
P. S. 220, § 65.  
13 Gray, 439.

beds and bedding; cost of medicines; cost of medical attendance; cost of religious or secular instruction; cost of fuel; cost of light; allowance to discharged prisoners; allowance to witnesses in money or clothing. The prison book, verified by the oath of the jailer or master, shall be exhibited to the commissioners when his accounts are presented for examination, and at other times when demanded. A jailer or master who neglects to keep such book or to enter therein such facts, or who wilfully makes any false entry therein, shall forfeit one hundred dollars, which shall be recovered by the county commissioners in the name of the county, or, in the county of Suffolk, by the penal institutions commissioner in the name of the city of Boston, and shall be expended by them or him for the relief of discharged prisoners.

SECTION 8. The master, keeper, superintendent or other officer who has charge of a jail, house of correction, truant school or other county public institution shall keep an invoice book, in which shall be entered, on the day of receipt, all bills for supplies for the maintenance of such institution. Such books shall be as nearly uniform as the character of the institutions will admit and shall be kept posted up to date so that the footings shall at any time show the then actual facts relating to such supplies. Such books shall be county property and shall remain among the records of the institutions to which they belong.

Invoice books.  
1890, 296.

SECTION 9. The warden of the state prison, the superintendent of the Massachusetts reformatory and of the reformatory prison for women, respectively, sheriffs, county commissioners and the penal institutions commissioner of the city of Boston shall annually, on or before the fifteenth day of October,\* make a report to the prison commissioners of the salaries of prison officers, of the number and cost of support of prisoners, and of such other details relative to the management and discipline of the several prisons as the commissioners may from time to time prescribe. The

Annual  
reports.  
1840, 15, § 2.  
1857, 40, 290.  
1858, 46.  
1859, 133, §§ 1-3.  
G. S. 178, §§ 69-71.  
1864, 307, §§ 2-4.  
1870, 370, § 9.  
1872, 24.  
1874, 264, §§ 2, 3;  
385, § 22.  
1877, 120.  
1879, 294, § 33.  
1881, 66.  
P. S. 219, §§ 82,  
83, 88.  
1884, 255, §§ 24,  
31.

\* This date will be affected by chapter 211, Acts of 1905, which establishes November 30 as the close of the fiscal year.



warden of the state prison and the superintendent of the Massachusetts reformatory and of the reformatory prison for women, respectively, shall also include in their reports the amount of liabilities and outstanding claims of said institutions, the names of their debtors and creditors, the amounts due to or from each and when they are payable; detailed accounts of expenditures for the prisons for the year ending on the preceding thirtieth day of September;\* the cost of all changes made in the buildings thereof; the names, position, pay and allowances of every officer or employee thereof; the average cost of the support of each prisoner; the number of volumes in the library of each prison; and such other facts relative to said prisons as the commissioners consider proper. An officer who refuses or neglects to make such report at the time prescribed or who withholds it after said date shall forfeit one dollar for each day's neglect, which shall be deducted from his salary or compensation at the first monthly payment after his default has been reported to the proper auditing or disbursing officer.

Officers in jails and houses of correction may be transferred to state institutions. 1894, 849. 1904, 214.

SECTION 10. An officer in a jail or house of correction may be transferred to the state prison, the Massachusetts reformatory, *or the temporary industrial camp for prisoners* as a watchman; and if the place in which he is employed is not in the classified list prepared by the civil service commissioners, they shall give him a non-competitive examination as to his fitness, upon receipt from the warden of the state prison, the superintendent of the Massachusetts reformatory *or the superintendent of the temporary industrial camp for prisoners* of a statement that the appointment of such officer is desired and that he possesses particular qualifications for the work which will be required of him.

Removal of incompetent officers of prison.

SECTION 11. An officer of the state prison who holds his place at the pleasure of the warden, or of the warden

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\* This date will be affected by chapter 211, Acts of 1905, which establishes November 30 as the close of the fiscal year.

and commissioners, or an officer or employee of the Massachusetts reformatory or reformatory prison for women who holds his place at the pleasure of the superintendent, or of the superintendent and commissioners, who is unfaithful or incompetent, or who uses intoxicating liquor as a beverage, shall be by them forthwith removed. If the warden or superintendent and the commissioners do not concur as to the expediency of a removal which requires their concurrence, the question may be referred to the governor and council, who may make such removal.

SECTION 12. The jailer, master or keeper of a jail or house of correction, except in the county of Suffolk, may be removed by the superior court for neglect of duty or for wasteful or extravagant use of supplies, upon complaint of the county commissioners, after notice to the sheriff and the person complained of and a hearing.

SECTION 13. The sheriffs of the several counties and the penal institutions commissioner of the city of Boston shall forthwith remove any officer who has been appointed by them, respectively, to any position of trust or authority in a jail or house of correction and who is known to use intoxicating liquor as a beverage.

SECTION 14. The authorities of the state of Vermont shall have the same power and authority to detain and transport through this commonwealth persons who have been convicted of crime in Vermont and sentenced to imprisonment in a penal institution therein as they have to detain and transport them in said state.

1827, 118, § 7.  
R. S. 144, § 11.  
1858, 162, § 1.  
G. S. 178, § 18.  
1879, 294, § 16.  
P. S. 219, § 21.  
1890, 267.  
1901, 864, § 8.

Removal of incompetent officers of jails and houses of correction.  
1859, 249, § 8.  
G. S. 178, § 20.  
P. S. 220, § 24.

Officer using intoxicating liquor to be removed.  
1858, 162, § 2.  
G. S. 178, § 45.  
P. S. 220, § 49.  
1882, 6, § 4.

Transportation of prisoners of Vermont.  
1892, 428.

#### PRISONERS.

##### *Classification, Registration and Identification.*

SECTION 15. The prison commissioners may, with the approval of the governor and council, provide for grading and classifying the prisoners in the state prison and in the Massachusetts reformatory and may establish rules for dealing with the prisoners in the state prison accord-

Classification in prisons.  
1884, 255, § 28.  
1891, 372, § 1.  
1892, 267, § 1.

ing to their conduct and industry and with the prisoners in the Massachusetts reformatory according to their conduct, industry in labor and diligence in study.

Classification  
in jails and  
houses of  
correction.

1862, 127, § 1.  
1870, 370, § 2.  
1879, 294, § 8.  
P. S. 219, § 4;  
220, § 10.  
1896, 259.

SECTION 16. They shall, as far as practicable, so classify prisoners who have been sentenced and committed to the jails and houses of correction, with reference to their sex, age, character, condition and offences, as to promote their reformation and safe custody and the economy of their support, and to secure the separation of male and female prisoners. Sheriffs may classify prisoners in houses of correction, subject to the revision of the prison commissioners. The master or keeper of a jail or house of correction shall ascertain whether a prisoner committed thereto upon a sentence of six months or more is able to read or write.

— in jails and  
houses of  
correction.

1817, 149, § 2.  
1834, 151, § 19.  
R. S. 143, § 35.  
G. S. 178, § 33.  
P. S. 220, § 38.

SECTION 17. Male and female prisoners shall not be put or kept in the same room in a jail or house of correction; nor, unless the crowded state of the institution so requires, shall any two prisoners, other than debtors, be allowed to occupy the same room, except for work. Persons committed for debt shall be kept separate from convicts and from persons who are confined upon a charge of an infamous crime. Conversation between prisoners in different apartments shall be prevented. Minors shall be kept separate from notorious offenders and from persons who have been convicted of an infamous crime. Persons committed on charge of crime shall not be confined with convicts, and prisoners charged with or convicted of a crime not infamous shall not be confined with those charged with or convicted of an infamous crime, except while at labor or assembled for moral or religious instruction, at which time no communication shall be allowed between prisoners of different classes.

Certain  
prisoners to  
be measured  
and described  
in accordance  
with the  
Bertillon  
method.  
1904, 241.

SECTION 18. *Prisoners who have been convicted of a felony and committed under sentence shall, and prisoners who are under sentence as tramps or vagrants may, if deemed advisable for the purpose of subsequent identifi-*

cation, be measured and described in accordance with the Bertillon method for the identification of criminals, by persons in the service of the Commonwealth or of any county, who may be appointed by the prison commissioners for that purpose.

The keeper of a place of detention or penal institution to which a person is committed under a sentence of imprisonment for a felony by a court of competent jurisdiction shall, unless the court otherwise orders, cause to be taken a photograph and the name, age, height, weight and a general description of such person, and copies of his finger-prints in accordance with the finger-print system of identification of criminals, and, if the keeper deems it advisable, the measurements of such person in accordance with the so-called Bertillon system. The court may, in its discretion, order to be taken the photograph, and the aforesaid description, finger-prints, and measurements of a person convicted of a felony who is not committed to a penal institution. All such photographs and identifying matter shall be transmitted forthwith to the prison commissioners.

Identification  
of certain  
criminals.  
1905, 459, § 1.

The photographs and identifying matter obtained in accordance with the provisions of section one shall be kept in the office of the prison commissioners. Said commissioners shall, upon request, furnish the same to the chief of police of a city or town in the Commonwealth, and, if they deem it advisable, to police authorities outside of the Commonwealth. Said commissioners are hereby authorized to appoint an agent to assist them in receiving, recording and keeping the said photographs and identifying matter. The clerk shall be subject to the direction of the commissioners and shall perform such duties and receive from the Commonwealth such salary as they shall determine.

Photographs,  
etc., to be kept  
in office of  
prison com-  
missioners,  
etc.  
1905, 459, § 2.

SECTION 19. The district attorney who prosecuted such prisoners as are described in the preceding section shall forward to the officer in charge of the prison to

District attor-  
ney to furnish  
criminal  
history.  
1890, 816, § 3.  
1900, 260, § 1.

which he is sentenced the criminal history of each prisoner as shown upon the trial, upon blanks which shall be furnished by the prison commissioners.

Record of  
measurements.  
1890, 316, § 2.  
1900, 280, § 2.  
[1 Op. A. G.  
27.]

SECTION 20. The warden of the state prison, the superintendent of the Massachusetts reformatory and of the reformatory prison for women, respectively, and the keepers of jails and houses of correction shall keep a record of such measurements and descriptions and of the criminal history of prisoners so measured and described as shown by the records of the courts of this commonwealth or of any other state or by any other official records which are accessible, and shall attach to the record, or file in such manner as to be readily found, a photograph or photographs of such prisoner.

Publication of  
records.  
1890, 316, § 4.  
1899, 203.  
1900, 280, § 1.

SECTION 21. The record required by the preceding section shall not be published except as far as may be necessary for the identification of persons who are convicted of felony after their release from prison; but the officer in charge of a prison shall exhibit the record to any person upon the order of a justice of the superior court or of a district attorney. A copy of the measurements, descriptions, photographs and histories shall, upon request, be furnished by the officer in charge of any prison to the principal officer of a prison in any other state which requires by law the measurement and description of convicts and which has provided for furnishing information concerning criminals to other states, and to the chief executive officer of the police force of any city or town in the commonwealth which has in use the said Bertillon method, if such city or town pays for the expense thereof.

No compensa-  
tion to officers.  
1890, 316, § 5.  
1900, 280, § 1.

SECTION 22. No compensation shall be allowed to an officer for the performance of any services required by the provisions of the four preceding sections,\* but he shall be reimbursed by the commonwealth for his actual travel-

\* See Acts of 1905, chapter 459, following section 18, p. 39.

ling expenses incurred in the performance of any duties therein required.

SECTION 23. The prison commissioners may send or cause to be sent to any national bureau of identification which may be established for the purpose of exchanging information according to the method of identification by the Bertillon method, the measurements and descriptions of all prisoners in this commonwealth who may be measured thereunder.

Descriptions  
furnished to  
national  
bureau.  
1892, § 18, § 2.

*Discipline and Treatment.*

SECTION 24. The warden and officers of the state prison shall treat the prisoners with kindness so long as they merit such treatment by their obedience, industry and good conduct.

Treatment  
of prisoners.  
R. S. 144, § 52.  
G. S. 179, § 38.  
P. S. 221, § 26.

SECTION 25. The warden shall cause all necessary means to be used to maintain order in the state prison, enforce obedience, suppress insurrection and prevent escapes, and for that purpose he may at all times require the aid and utmost exertions of all the officers of the prison except the chaplain and physician.

Warden to  
maintain  
order.  
1827, 118, §§ 3,  
21.  
R. S. 144, § 48.  
G. S. 179, § 39.  
P. S. 221, § 26.

SECTION 26. Prisoners in the state prison shall be constantly employed for the benefit of the commonwealth, but no prisoner shall be employed in engraving.

Prisoners, how  
employed.  
1827, 118, § 13.  
R. S. 144, § 33.  
1850, 289, § 4.  
G. S. 179, § 40.

P. S. 221, § 27.

1888, 189.

SECTION 27. No communication between the prisoners in the state prison and any person without the prison shall be allowed. The prisoners shall be confined in separate cells in the night time, and all intercourse between them in the day time shall, as far as is practicable, be prevented; but the warden may, at such times and under such circumstances as he considers expedient, with the consent of the commissioners, allow them to assemble together in the yard for recreation and exercise.

Separation of  
prisoners.  
1827, 118, § 13.  
R. S. 144, § 33.  
G. S. 179, § 44.  
1869, 275.  
P. S. 221, § 31.

SECTION 28. Prisoners in the state prison and in the reformatory prison for women may be employed, in the custody of an officer, on any part of the premises of

Employment  
on land ap-  
purtenant to  
prison.  
1884, 255, § 32.  
1886, 94, § 1.

1898, 307.  
1901, 106.  
1903, 207.

the prison, and whoever escapes from said premises shall be deemed to have escaped from *the* prison. Prisoners in the Massachusetts reformatory may be employed, in the custody of an officer, upon any land or building which is owned by the commonwealth, and whoever escapes from said land or building shall be deemed to have escaped from said reformatory.

Outside labor  
for private  
parties forbid-  
den.  
1891, 209.  
1903, 244.

SECTION 29. *Prisoners in the state prison, the Massachusetts reformatory, the reformatory prison for women, the state farm, the temporary industrial camp for prisoners, or in any jail or house of correction, may be employed in the custody of an officer in caring for public lands and buildings, but no prisoner shall be employed outside the precincts of the place of his imprisonment in doing work of any kind for private persons.*

Ventilation of  
prison, and  
baths.

Food, clothing  
and bedding.  
1817, 149, § 1.  
1827, 118, §§ 14,  
15.  
1829, 16, § 2;  
114, § 1.  
1833, 67, § 3.  
1834, 145, § 2;  
151, § 11.  
R. S. 143, § 39;  
144, §§ 44, 45, 47.  
1848, 324, §§ 1, 2.  
1859, 101.  
G. S. 178, § 32;  
179, §§ 59, 61, 62.  
1879, 294, § 12.  
P. S. 219, § 16;  
220, § 37; 221,  
§ 32.

SECTION 30. All penal institutions shall be suitably and sufficiently ventilated. The food, clothes, beds and bedding therein shall be of good quality and of sufficient quantity for the sustenance and comfort of the prisoners, and the bedding shall include mattresses, blankets and pillows. The warden of the state prison, the superintendent of the Massachusetts reformatory and of the reformatory prison for women, respectively, and the keepers and masters of jails and houses of correction shall see that strict attention is constantly given to the personal cleanliness of all prisoners in their custody. They shall, once at least in each week, cause the shirt of each prisoner to be washed, each male prisoner to be shaved, and each prisoner to have a bath of cold or tepid water applied to the whole surface of the body if such bath would not, by reason of illness, be hurtful or dangerous. Each prisoner shall be provided daily with as much clean water as he needs for drink or for the purpose of personal cleanliness, and with a clean towel once a week. Clothes shall not be washed or hung out wet in any room which is occupied by a prisoner during the night. All prisoners who are not in solitary confinement shall be served three times each day with a

sufficient quantity of wholesome food, well cooked and in good order.

SECTION 31. No person, except the governor and council, members of the general court, officers of justice or other persons who have business at the prison, shall be allowed to visit it without a permit from one of the commissioners or from the warden.

Visitors to  
state prison.  
1854, 302, § 1.  
G. S. 179, § 48.  
P. S. 221, § 33.

SECTION 32. The warden shall cause a register to be kept of the names and residences of all visitors and of the authority by which they visit, which shall always be open to the commissioners. He may refuse admission to a person who has a permit, if such admission would be injurious to the best interests of the prison, but he shall forthwith report such refusal to the commissioners.

Register of  
visitors.  
1854, 302, §§ 2, 3.  
G. S. 179, §§ 49,  
50.  
1879, 294, § 34.  
P. S. 221, §§ 34,  
35.

### *Punishment.*

SECTION 33. Punishment by the use of the gag shall not be allowed in any penal or charitable institution. An officer of any such institution who uses a gag as a punishment shall be punished by a fine of not more than fifty dollars.

Gag forbidden.  
1879, 181.  
P. S. 222, § 6.

SECTION 34. The warden of the state prison, with the consent of one or more of the commissioners, may, for such time as they consider necessary to produce penitence, or to promote good order and discipline, confine obstinate and refractory prisoners to solitary labor.

Solitary labor.  
1850, 289, § 1.  
G. S. 179, § 41.  
1879, 294, § 34.  
P. S. 221, § 28.

SECTION 35. A prisoner in the state prison who is sentenced to solitary imprisonment or who is subjected thereto for a violation of the rules and regulations of the prison shall be confined in a solitary cell and be fed with bread and water only, unless the physician of the prison certifies to the warden that his health requires other diet.

Solitary  
imprisonment.  
1827, 118, § 18.  
R. S. 144, § 32.  
G. S. 179, § 42.  
P. S. 221, § 29.

SECTION 36. When a prisoner is sentenced to solitary imprisonment and hard labor in a jail or house of correction, the master or keeper shall execute such sentence by confining him in one of the cells, and during the time

Execution of  
sentence to  
solitary  
imprisonment.  
1834, 151, § 14.  
R. S. 143, § 20.  
1854, 333.  
G. S. 178, § 34.  
P. S. 220, § 39.



of solitary imprisonment, he shall be fed with bread and water only, unless other food is necessary for the preservation of his health. No intercourse shall be allowed with a prisoner in solitary imprisonment, except for the conveyance of food and other necessary purposes.

Work for prisoners; log and chain.  
1834, 151, § 15.  
R. S. 143, § 21.  
1850, 239, § 4.  
G. S. 178, § 35.  
1877, 147.  
P. S. 220, § 40.

SECTION 37. As soon as the term of solitary imprisonment has expired, the master or keeper shall provide the prisoner with tools and materials or other means for work in a suitable manner, in which he can be usefully or profitably employed in the house of correction or jail, or close yard thereof; but no prisoner shall be employed in engraving or printing. Such prisoner may, if necessary, be confined by a log and chain or in such other manner as shall prevent his escape without unnecessarily inflicting bodily pain or interrupting his labor. The county commissioners, or, if the punishment is inflicted in the jail, the sheriff, shall oversee the execution of all such sentences.

Punishment of refractory prisoner.  
1834, 151, § 15.  
R. S. 143, § 22.  
1853, 34.  
G. S. 178, § 36.  
P. S. 220, § 41.

SECTION 38. If a prisoner is refractory, or if, during the time for which he is sentenced to hard labor, he refuses or neglects without reasonable cause to labor in a suitable manner when required, he shall be kept in solitary imprisonment and fed on bread and water, as before provided, so long as he is refractory or refuses to labor; but the keeper of a jail or master of a house of correction shall not keep a prisoner in solitary imprisonment for more than three days at one time without informing the sheriff or county commissioners thereof and of the reasons therefor.

Solitary imprisonment for refractory prisoner.  
1818, 123, § 4.  
1823, 148, § 8.  
1834, 151, § 18.  
R. S. 143, § 46.  
1857, 35.  
G. S. 178, § 37.  
P. S. 220, § 42.

SECTION 39. If a person who is confined in a jail or house of correction upon a conviction or charge of a crime against the commonwealth is refractory or disorderly, or wilfully or wantonly destroys or injures any article of furniture or other property or any part of such prison, the sheriff or county commissioners or penal institutions commissioner of the city of Boston, respectively, after due inquiry, may cause him to be kept in solitary imprison-

ment not more than ten days for one offence; and, during such imprisonment, to be fed with bread and water only, unless other food is necessary for the preservation of his health.

SECTION 40. If a person who is committed to jail on mesne process or execution, or for any cause other than those mentioned in the preceding section, is convicted of any of the offences therein named, he shall be punished by solitary imprisonment, as directed in said section, for not more than ten days for each offence, and shall be liable in an action of tort, to be commenced by the sheriff or county treasurer in the name and to the use of the county, for double the amount of the damage done to the jail, furniture or other property.

Punishment of  
poor debtors,  
etc., for dep-  
redations.  
1823, 148, § 8.  
1834, 151, § 13.  
R. S. 143, § 47.  
G. S. 178, § 38.  
P. S. 220, § 43.

SECTION 41. The provisions of the two preceding sections shall not affect the authority of a sheriff, jailer or master of a house of correction to preserve order and enforce strict discipline among the prisoners in his custody.

Sheriff's and  
keeper's au-  
thority.  
1834, 151, § 13.  
R. S. 143, § 48.  
G. S. 178, § 39.  
P. S. 220, § 44.

SECTION 42. The officers who have the custody and charge of prisoners in the several prisons and other places of confinement shall see to it that every cell therein which may be used as a place for solitary imprisonment is properly ventilated and furnished with a form of boards, not less than six and one-half feet long, eighteen inches wide and four inches high from the floor, and with a sufficient amount of bedding to protect the inmate from injury to health. The prison commissioners shall ascertain whether the requirements of this section are observed.

Solitary cell.  
1873, 143.  
1876, 61, §§ 1, 3.  
P. S. 222, §§ 3, 5.

### *Labor of Prisoners.*

SECTION 43. The prison commissioners and the warden of the state prison, the superintendent of the Massachusetts reformatory, of the reformatory prison for women or of the state farm, masters, keepers or superintendents of jails and houses of correction, or of any other penal institution of the commonwealth, or of any county, shall

Establishment  
of industries.  
1887, 447, §§ 1, 7.  
1888, 22, 403,  
§§ 1, 5.  
1897, 412, § 3;  
434.  
1900, 269.  
1901, 364, § 2.  
173 Mass. 217.

determine the industries which shall be established and maintained in the respective institutions which are under the control of said officers. The prisoners in said institutions shall be employed in said industries under regulations which shall be established by the prison commissioners, but no contract shall be made for the labor of prisoners, except that, with the approval of the prison commissioners, prisoners may be employed in cane seating and the manufacture of umbrellas under the "piece price system", so called.

Instructors.  
1887, 447, § 2.  
1897, 434.  
1900, 269.

SECTION 44. The warden, superintendent, master or keeper of any institution described in the preceding section may, with the approval of the prison commissioners, appoint such superintendents and instructors to instruct the prisoners in said industries as he and the prison commissioners shall consider necessary. Such superintendents and instructors shall have the same authority relative to the prisoners as the subordinate officers of the institution in which they are employed. Their compensation shall be fixed and they may be removed by the warden, superintendent, master or keeper, with the approval of the prison commissioners.

Articles to be  
produced.  
1887, 447, § 13.  
1898, 834, § 1.  
1900, 269.

SECTION 45. The prison commissioners shall, as far as possible, cause such articles and materials as are used in the public institutions of the commonwealth and of the several counties which are established, maintained or supported, wholly or in part, by the appropriation of public money or such as are used in the public institutions of cities which, according to the latest census, state or national, had a population of forty thousand inhabitants, to be produced by the labor of prisoners in the institutions named in section forty-three.

Industries at  
Massachusetts  
reformatory.  
1884, 255, § 28.  
1888, 403, § 7.

SECTION 46. They and the superintendent of the Massachusetts reformatory shall endeavor to establish in said reformatory such industries as, within the provisions of this chapter, will enable prisoners employed therein to learn valuable trades.

SECTION 47. The number of prisoners in all the institutions named in section forty-three who may be employed in the industries hereinafter named, shall be limited as follows: in the manufacture of brushes, not more than eighty; in the manufacture of cane chairs with wood frames, not more than eighty; in the manufacture of clothing other than shirts or hosiery, not more than three hundred and seventy-five; in the manufacture of harnesses, not more than fifty; in the manufacture of mats, not more than twenty; in the manufacture of rat-tan chairs, not more than seventy-five; in the manufacture of rush chairs, not more than seventy-five; in the manufacture of shirts, not more than eighty, and they shall be women; in the manufacture of shoes, not more than three hundred and seventy-five; in the manufacture of shoe heels, not more than one hundred and twenty-five; in the manufacture of trunks, not more than twenty; in stone cutting, not more than one hundred and fifty; in laundry work, not more than one hundred.

Limitation of  
prison indus-  
tries.  
1883, 217.  
1887, 447, § 8.  
1888, 403, § 2.  
1891, 371.  
1894, 460.  
1897, 412, § 1.

SECTION 48. Not more than thirty per cent of the number of inmates of any penal institution which has more than one hundred inmates shall be employed in any one industry, except cane seating and the manufacture of umbrellas.

Limit of num-  
ber to be  
employed in  
one industry.  
1897, 412, § 2;  
480.

SECTION 49. The provisions of the two preceding sections shall not apply to prisoners who are engaged in the manufacture of goods for use in the penal or public charitable institutions or hospitals of the commonwealth, of the counties thereof or of the cities described in section forty-five.

Application  
of preceding  
sections.  
1897, 412, § 4.

SECTION 50. If the prison commissioners and the warden, superintendent, master or keeper of any institution named in section forty-three consider the employment of prisoners or a part of them upon the piece price plan expedient, they shall advertise for bids therefor, which shall be opened publicly, and a copy and record thereof shall be kept by the prison commissioners. If said offi-

Bids for piece  
price contracts.  
1894, 461.  
1897, 434.  
1900, 269.

cers consider it inexpedient to accept any of such bids, contracts may be made with other persons. Copies of all contracts for the employment of prisoners shall be kept by the prison commissioners, and shall at all times be open to public inspection.

Purchase of  
implements  
and materials.  
1887, 447, §§ 1, 9.  
1888, 403, § 3.  
1891, 228, § 1.  
1897, 434.  
1900, 269.  
1908, 213.

SECTION 51. The tools, implements and materials required for use in manufacturing in any penal institution named in section forty-three shall, and such machinery as may be necessary to replace any which becomes unfit for use, or which is destroyed by fire or by the malicious acts of prisoners or to establish new trades or industries may, be purchased by the warden, superintendent, master or keeper thereof under the supervision of the prison commissioners after estimates or requisitions, in such form as *said commissioners* shall from time to time require, have been approved by *them*.

Sale of manu-  
factured  
goods.  
1887, 447, §§ 9,  
13.  
1888, 403, § 3.  
1897, 412, § 5;  
434.  
1900, 269.

SECTION 52. Goods which have been manufactured in any of the institutions named in section forty-three shall, with the approval of the prison commissioners, in such manner as they shall from time to time prescribe, be sold by the warden, superintendent, master or keeper thereof at not less than the wholesale market price which prevails at the time of sale for goods of the same description and quality; but this provision shall not apply to goods furnished to public institutions for the use of the inmates thereof. The proceeds of such sales shall be paid by the purchasers to the respective institutions from which the goods are delivered.

Purchasing  
and selling  
agents.  
1888, 403, § 3.

SECTION 53. The warden, superintendent, master or keeper of any institution named in section forty-three may, with the approval of the prison commissioners, appoint agents who, under such regulations as the prison commissioners shall from time to time establish, shall purchase tools, implements, materials and machinery and sell manufactured goods as aforesaid. They may be removed at the pleasure of the officer by whom they were appointed and shall receive such compensation as said offi-

cer with the approval of the prison commissioners shall determine. The prison commissioners shall have no authority to purchase or sell any articles for any institution.

SECTION 54. The warden, superintendent, master or keeper of each institution named in section forty-three shall make a full report to the prison commissioners when and as they require relative to the labor of the prisoners. The prison commissioners shall from time to time send to them, to the principal officers of public institutions which are described in section forty-five, to the auditor of the commonwealth and to the auditing and disbursing officers of each county and city, a list of such articles and materials as can be produced by the labor of the prisoners. The warden, superintendent, master, keeper or principal officer of any such institution in which such articles or materials are needed shall apply therefor to the prison commissioners upon forms to be provided by them. The prison commissioners shall thereupon forthwith inform him in what institutions they are produced, and he shall purchase them from any institution so designated. If they are needed immediately and are not on hand, the prison commissioners shall forthwith so notify him, and he may purchase them elsewhere; but a bill for articles or materials named in said list which are so purchased shall not be paid unless it is accompanied by a certificate of the prison commissioners that they could not be supplied from any of said institutions.

Supply of  
articles to  
institutions.  
1887, 447, § 13.  
1897, 434.  
1898, 334, §§ 2-4.  
1900, 269.

SECTION 55. The auditor of the commonwealth, the controller of county accounts and the chairman of the board of prison commissioners shall constitute a board to determine the prices of articles or materials manufactured and sold under the provisions of sections forty-five and fifty-four. The prices shall be uniform and shall conform as nearly as may be to the usual market price of like goods manufactured elsewhere. The members of the board shall receive no compensation for such services, but

Board to deter-  
mine prices.  
1898, 334, § 5.  
1901, 364.

the actual and necessary expenses incurred by them in the performance of such services shall be paid from the appropriation for the incidental and contingent expenses of the prison commissioners.

Accounting  
for receipts  
and payment  
of expenses.  
1864, 303, § 2.  
1874, 383, § 23.  
P. S. 221, § 59.  
1884, 255, § 29.  
1887, 447, §§ 10,  
11.  
1898, 259, 277.

SECTION 56. The receipts from the labor of prisoners in the state prison, the Massachusetts reformatory, the reformatory prison for women and the state farm shall be paid into the treasury of the commonwealth monthly, and the receipts from the labor of prisoners in a jail or house of correction shall be paid into the county treasury monthly, and so much thereof as is necessary to pay the expense of maintaining the industries in said institutions shall be expended therefrom for that purpose; but not until schedules of such expenses have been sworn to by the warden or superintendent and approved by the prison commissioners. Receipts from any one of the institutions shall be applied to paying the bills of that institution only. The warden or superintendent of the state prison, Massachusetts reformatory, reformatory prison for women or state farm shall, as often as he has in his possession money to the amount of ten thousand dollars which he has received under the provisions of the thirteen preceding sections, pay it into the treasury of the commonwealth, and the master or keeper of a jail or house of correction shall, as often as he has in his possession such money to the amount of five thousand dollars, pay it into the county treasury.

Payment of  
salaries and  
bills for tools,  
etc.  
1887, 447, §§ 3, 4.  
1891, 228, § 3.

SECTION 57. Bills for tools, implements, machinery and materials purchased by, and the salaries of persons employed in, the state prison, the Massachusetts reformatory, the reformatory prison for women and the state farm under the provisions of the fourteen preceding sections shall be paid monthly from the treasury of the commonwealth, upon schedules prepared and sworn to by the warden or superintendent and approved by the prison commissioners. Bills for tools, implements, machinery and materials purchased by, and the salaries of persons

employed in, the jails and houses of correction under the provisions of said sections shall be paid monthly from the county treasury, upon schedules prepared and sworn to by the master or keeper and approved by the prison commissioners. The schedules of bills for tools, implements and machinery and of bills for materials and salaries shall be kept separate from each other and from the schedules of bills incurred for the maintenance of the prison, reformatory, jail or house of correction.

SECTION 58. The warden, superintendent, master or keeper of any institution named in section forty-three may sue or be sued upon any contract of purchase or sale made by him under the provisions of the fifteen preceding sections. No suit shall abate by reason of a vacancy in any such office, but the successor of any such officer may, and upon motion of the adverse party shall, prosecute or defend it. The warden, superintendent, master or keeper may submit a controversy relative to such contract or an action thereon to the final determination of arbitrators or referees who shall be approved by the governor, or, if the suit is brought by or against the master or keeper of a jail or house of correction, they shall be approved by the county commissioners.

Suits by and against warden, etc.  
1887, 447, § 12.  
1888, 403, § 4.  
1897, 434.

SECTION 59. The prison commissioners may cause the prisoners in any jail or house of correction to be employed within the precincts of the prison in preparing material for road making; but no machine except such as is operated by hand or foot power shall be used in connection with such employment.

Preparation of road material.  
1898, 365, § 1.

SECTION 60. The Massachusetts highway commission shall, at the request of the prison commissioners, give them such information and instructions as will enable them to direct said employment in a manner which will furnish suitable and proper material for road building.

Highway commission to give instruction.  
1898, 365, § 2.

SECTION 61. Material so prepared may be sold to the county commissioners or to city and town officers who have the care of public roads. All material not so sold

Sale of road material.  
1898, 365, § 3.



shall be purchased by the Massachusetts highway commission, at such price as they determine is fair and reasonable, for use on state highways; but the prison commissioners may cause any of said prisoners to be employed upon material furnished by said highway commission, who shall then pay for the labor of preparation such price as may be agreed upon by said prison commissioners and said highway commission.

Payment of  
expenses.  
1898, 365, § 4.

SECTION 62. All money received under the provisions of the three preceding sections shall be paid into the county treasury, and the expenses of employing prisoners thereunder shall be paid from the county treasury, in the manner provided in section fifty-six. Payment for material sold or labor performed thereunder shall be made to the master or keeper of the jail or house of correction where it is prepared or performed.

Land for in-  
dustrial camp.  
1898, 393, §§ 1, 2.

SECTION 63. The governor and council may purchase or otherwise take in fee any parcel of waste or unused land, not exceeding one thousand acres in area, for the purpose of reclaiming, improving and disposing of it for the benefit of the commonwealth. When land has been so taken, the governor and council shall cause a description thereof as certain as is required in an ordinary conveyance of land to be filed in the registry of deeds for the county or district in which the land lies, with a statement, signed by the governor, that it is taken on behalf of the commonwealth for the purposes described in this section. The act and time of filing such description shall be considered the act and time of taking such land, and shall be sufficient notice to all persons that the land has been so taken. The title to such land shall then vest in the commonwealth.

Damages.  
1898, 393, § 3.

SECTION 64. The governor and council may settle by agreement or arbitration the amount to be paid to any person for land so taken, and if such amount is not so determined within sixty days after it has been taken, they shall appraise the value of every unsettled interest therein

as far as can be ascertained and file the appraisal with the auditor, who shall, upon the application of any person whose interest has been so appraised, certify the amount awarded to him by such appraisal, and a warrant shall be drawn for the payment of such amount from the treasury of the commonwealth. The acceptance of such payment shall be an acknowledgment of full satisfaction. A person who is aggrieved by such appraisal may, upon application within one year after the taking, have his damages assessed by a jury in the manner provided for the taking of land for highways.

SECTION 65. After such land has been so taken, the prison commissioners, with the approval of the governor and council, shall cause iron buildings of cheap construction to be erected thereon for the accommodation of not more than one hundred prisoners. When such buildings are ready for occupancy, the governor may issue his proclamation establishing on such land a temporary industrial camp for prisoners, and the prison commissioners may appoint a superintendent thereof, who shall hold his office at their pleasure, give such bond as they require, receive such salary as they determine and who shall have the custody of all prisoners removed thereto. The superintendent, with the approval of the prison commissioners, may appoint and determine the compensation of assistants, and they shall hold their office at his pleasure.

Establishment  
of camp.  
Superintendent.  
1898, 898, §§ 4-6.

SECTION 66. [Repealed by section 5, chapter 243, Acts of 1904.]

*Prisoners who are removed to the temporary industrial camp for prisoners shall be governed and employed there under regulations made by the prison commissioners. The Massachusetts highway commission and the board of agriculture shall from time to time, at the request of the prison commissioners, give to them such information as may enable them to prosecute to the best advantage the work of reclaiming and improving waste land and of preparing material for road building by hand labor.*

Employment  
of prisoners  
at temporary  
industrial  
camp, etc.  
1904, 243, § 1.

Escape of  
prisoners.  
1904, 243, § 2.

*A prisoner who escapes from the land or buildings of said camp, or from the custody of an officer while being conveyed thereto, may be pursued and recaptured; and upon complaint before any district court or trial justice may be punished for such escape by a sentence of imprisonment at the state farm.*

Permits to be  
at liberty may  
be issued, etc.  
1904, 243, § 3.

*The prison commissioners in their discretion may issue to any prisoner held at said camp a permit to be at liberty, upon such terms and conditions as they shall prescribe; and all the laws relative to the revocation of permits to be at liberty shall apply to prisoners from said camp.*

Aiding dis-  
charged  
prisoners.  
1904, 243, § 4.

*The prison commissioners may expend from the appropriation for aiding prisoners discharged from the Massachusetts reformatory such an amount as they consider advisable for aiding prisoners discharged from the temporary industrial camp for prisoners.*

Expense of  
maintenance.  
1898, 393, § 9.

SECTION 67. The expenses of maintaining said camp shall be paid by the commonwealth, upon schedules sworn and certified to by the superintendent and approved by the prison commissioners. Purchases and sales on account of said camp, except as to the land, shall be made by the superintendent with like approval. Receipts for articles or materials sold shall be paid into the treasury of the commonwealth each month.

Disposition of  
improved land.  
1898, 393, § 10.

SECTION 68. Land reclaimed or improved, as aforesaid, may be applied to the use of the commonwealth, or it may be disposed of by the governor and council at public or private sale. Any road material prepared, as aforesaid, may be sold by the superintendent of said camp, with the approval of the prison commissioners, to the authorities of the commonwealth or of any county, city or town.

#### *Binding Out Female Prisoners.*

Binding out  
female pris-  
oners.  
1879, 229, § 3.  
1880, 151, § 1.  
P. S. 219, § 23.

SECTION 69. The commissioners may, with the consent of a woman who is serving a sentence in the reformatory prison for women or in a jail or house of correction, and with the consent of the county commissioners, if she

is in a jail or house of correction, contract to have her employed in domestic service for such term, not exceeding her term of imprisonment, and upon such conditions, as they consider proper with reference to her welfare and reformation. If, in their opinion, her conduct at any time during the term of the contract is not good, they may order her to return to the prison from which she was taken.

SECTION 70. If she leaves her place of service, or if, having been ordered by the commissioners to return to prison, she neglects or refuses so to do, she shall be held to have escaped from prison and may be arrested and returned to the prison from which she was taken as if she had escaped therefrom, and shall, upon conviction of such escape, be punished by imprisonment in the reformatory prison for women or in a jail or house of correction for not less than three months nor more than one year. The expense of her arrest and return to prison shall be paid in the same manner as the expenses of the arrest and return of a prisoner who escapes from prison.

Penalty for refusing to return to prison.  
1880, 151, §§ 2-4.  
P. S. 219, §§ 24, 25.  
1894, 280.

### *Privileges.*

SECTION 71. Every inmate of a penal or reformatory institution shall be allowed to write letters to the principal officer or to any member of the supervising board thereof. A locked letter box, accessible to the inmates, shall be placed in each institution, in which they may deposit such letters, and such letters shall be duly delivered according to the address thereon. The keys of the boxes in the state prison, in the Massachusetts reformatory and in the reformatory prison for women shall be kept by the commissioners, and of those in each of the other institutions by the principal officer thereof.

Locked letter box.  
1878, 276.  
1879, 294, § 12.  
P. S. 222, § 7.

SECTION 72. An inmate of any prison or other place of confinement or public charitable or reformatory institution shall not be denied the free exercise of his religious belief and the liberty of worshipping God according to

Exercise of religious belief, etc.  
1834, 151, § 16. ¶  
R. S. 143, § 40.  
G. S. 178, § 40.  
1875, 126, §§ 1, 2.

1879, 158, §§ 1, 2.  
P. S. 222, §§ 8, 9.  
1904, 363, § 1.

the dictates of his conscience, in the place where he is confined; and he shall not be required to attend any other service or religious instruction other than that of his own religious belief: provided, that religious services and instructions of his own belief are regularly held at the institution; and he may, in illness, upon request to the warden, keeper or master, receive the visits of any clergyman whom he may wish. The officers and boards of officers who have the management and direction of such institutions shall make such regulations as may be necessary to carry out the intent and provisions of this section. The provisions of this section shall not be so construed as to impair the discipline of any such institution, so far as may be needful for the good government and safe custody of its inmates, nor prevent the assembling of all the inmates, *who do not attend a regularly held religious service of their own belief*, in the chapel thereof for such general religious instruction, including the reading of the Bible, as the board having charge of the institution considers expedient.

Sunday school  
and other  
instruction.  
1838, 152, § 3.  
1848, 324, § 3.  
G. S. 179, § 43.  
1869, 255.  
1871, 336.  
1879, 294, § 34.  
P. S. 221, § 30.  
1886, 197.

SECTION 73. The warden of the state prison, with the consent of the commissioners, may cause a sabbath school to be maintained in the prison for the instruction of the prisoners in their religious duties, and may permit such persons as they consider suitable to attend it as instructors, under such regulations as the commissioners may establish. The warden may also, subject to the restrictions and regulations of the commissioners, maintain schools of instruction for the prisoners, at such times, except on Sunday, as he, with the approval of the commissioners, may determine, and for such purpose, may expend, from the appropriation made for the support of the prison, not more than two thousand dollars annually.

School at  
Massachusetts  
reformatory.  
1884, 265, § 28.

SECTION 74. The superintendent of the Massachusetts reformatory and the commissioners may expend not more than two thousand dollars annually for the maintenance of a prison school.

SECTION 75. The county commissioners, or, in the county of Suffolk, the mayor of the city of Boston, with the sheriff of the county, may, at the expense of their county or city, furnish instruction in reading and writing for one hour each evening, except Sunday, to prisoners in the jails and houses of correction who may be benefited thereby and who wish to receive it.

Instruction in  
jails, etc.  
1848, 324, § 3.  
1854, 446, § 33.  
G. S. 178, § 41.  
P. S. 220, § 46.  
1880, 266, § 6.

SECTION 76. The keeper or master of a jail or house of correction shall, at the expense of the county, provide a copy of the Bible or of the New Testament for each prisoner under his charge who is able and wishes to read, which shall be used by him at proper seasons during his confinement. He may, at the expense of the county, provide books and papers for the use of such prisoners, but not exceeding in cost one hundred dollars a year. The county commissioners may, in their discretion and at the expense of the county, provide moral and religious instruction for such prisoners.

Moral and  
religious in-  
struction in  
jails, etc.  
1818, 123, § 4.  
1834, 161, § 16.  
R. S. 143, § 40.  
1848, 29, § 1.  
G. S. 178, § 40.  
1881, 125.  
P. S. 220, § 45.

SECTION 77. In the assignment of cells to prisoners in a house of correction, due regard shall be had to the accommodation of those who are able and wish to read; and from the first day of October to the first day of April, annually, all such prisoners who are confined to labor during the day shall be provided with sufficient light to enable them to read for at least one hour each evening.

Light for  
reading.  
1862, 127, § 2.  
P. S. 220, § 9.

SECTION 78. If the mother of a child under the age of eighteen months is imprisoned in a jail, house of correction, workhouse or other place of confinement and is capable and desirous of taking care of it, the keeper shall, upon the order of the court or magistrate committing her, or of any overseer of the poor, receive the child and place it under the care and custody of its mother.

Female pris-  
oner may have  
custody of  
infant.  
1858, 57, § 1.  
G. S. 178, § 29.  
P. S. 220, § 34.

SECTION 79. If the inspectors, directors or like officers of such institution are of opinion that the health and comfort of such child require its removal, or that it is expedient that it should be removed, they shall give notice to the father or other kindred thereof; or, if no

Removal of  
such child.  
1858, 57, § 2.  
G. S. 178, § 30.  
P. S. 220, § 35.

kindred can be found to receive it, to the overseers of the poor of the city or town in which it has a legal settlement, who shall receive it. If it has no settlement in this commonwealth, it shall be sent to the state hospital as is provided in the case of alien paupers.

### *Removals.*

From state prison to Massachusetts reformatory. 1884, 255, § 14; 881, § 5. 1894, 249, § 1. 1901, 340.

— to state farm. 1890, 180, § 1.

From reformatory prison for women. 1879, 294, § 4. P. S. 219, § 5. 1896, 817.

From Massachusetts reformatory. 1884, 255, §§ 12, 15. 1887, 292, § 1.

From state farm to Massachusetts reformatory. 1885, 85, § 2.

— to house of correction. 1890, 278, § 1.

— to reformatory prison for women. 1879, 294, § 4. P. S. 219, § 5.

From Lyman school for boys, etc.

SECTION 80. The prison commissioners may remove a prisoner held in the state prison upon a sentence for a term of years to the Massachusetts reformatory, and may at any time return him to the state prison. 148 MASS. 168.

SECTION 81. They may, with the consent of the governor and council, remove an aged or infirm prisoner in the state prison to the state farm, and may at any time return him to the state prison.

SECTION 82. They may remove a prisoner in the reformatory prison for women to the state farm or to a jail or house of correction, or, if she has been transferred to said prison from the industrial school for girls, to the state farm or to a house of correction.

SECTION 83. They may remove a prisoner in the Massachusetts reformatory to the state farm or to any jail or house of correction.

SECTION 84. They may remove a sentenced male prisoner from the state farm to the Massachusetts reformatory, and may at any time return him to the state farm.

SECTION 85. They may, upon the application of the trustees of the state hospital and the state farm, remove a sentenced prisoner from the state farm to any house of correction in the county in which he was convicted, and may, upon like application, return him to the state farm.

SECTION 86. They may remove a sentenced female prisoner at the state farm to the reformatory prison for women, and she shall there serve the remainder of her term of sentence.

SECTION 87. They may, upon the application of the trustees or board in charge of the Lyman and industrial

schools, of the house of employment and reformation for juvenile offenders established in the city of Boston, or of any other reform school established under authority of any general or special act, remove to the Massachusetts reformatory a boy who is confined in any of said schools upon a sentence for crime, and may at any time, upon like application, return him to the school from which he was transferred.

1884, 255, § 13.  
1901, 128, 359.

SECTION 88. They may, upon the application of the trustees of the Lyman and industrial schools, remove to the reformatory prison for women any girl who was committed for a crime to the industrial school for girls, and, upon like application, may return her to the industrial school for girls.

From industrial school for girls.  
1880, 208, § 3.  
P. S. 89, § 47.

SECTION 89. They may remove a prisoner from one jail to another in the same or another county, and he shall serve the remainder of his sentence in the place to which he is removed. The sheriff may, at his discretion, remove a prisoner from one jail to another in the same county for his health or safe keeping or for his more convenient appearance at court.

From jail to jail.  
R. S. 143, § 43.  
G. S. 178, § 2.  
1870, 370, § 2.  
1879, 294, § 3.  
P. S. 219, § 4;  
220, § 2.  
[1 Op. A. G.  
516.]

SECTION 90. They may remove a prisoner in jail under sentence to a house of correction. P. S. 220, § 2. 1882, 241, § 2.

From jail to house of correction.  
1881, 220.

SECTION 91. They may remove a prisoner from one house of correction to another in the same or another county. 1879, 294, § 3. P. S. 219, § 4.

From one house of correction to another.  
1870, 370, § 2.

SECTION 92. They may remove a prisoner in a house of correction under sentence to a jail.

From house of correction to jail.  
1882, 241, § 2.

SECTION 93. They may remove a male prisoner in a jail or house of correction to the Massachusetts reformatory, if he might, at the time of such removal, lawfully be sentenced to said reformatory, if they are of opinion that he is likely to be benefited by its reformatory influences, and they may at any time return him to the place of imprisonment from which he was removed.

From jail or house of correction to Massachusetts reformatory.  
1884, 255, § 12.

SECTION 94. They may remove a prisoner in a jail or house of correction to the state farm, and may at any

— to state farm.  
1876, 46, § 1.  
1879, 294, § 5.



P. S. 219, § 6.  
1886, 35, § 1.  
1899, 263, § 1.

time return him to the place of imprisonment from which he was removed.

From jail  
or house  
of correction  
to state  
farm if ill.  
1894, 214, § 1.

SECTION 95. They may, at the request of the governor and council, remove to the state farm for treatment a sentenced prisoner in a jail or house of correction who is suffering from disease which, in the opinion of the governor and council, cannot be safely and properly treated in the jail or house of correction, and they may at any time return him to the place from which he was removed.

— to industrial  
camp.  
1896, 393, § 7.  
1905, 240.

SECTION 96. They may remove prisoners from *the Massachusetts reformatory, the state farm, and the jails* and houses of correction to the temporary industrial camp for prisoners and may, at any time, return them to the place of imprisonment from which they were removed.

— to women's  
prison.  
1874, 385, § 15.  
1879, 294, § 4.  
P. S. 219, § 5.

SECTION 97. They may remove a sentenced female prisoner in a jail or house of correction to the reformatory prison for women, and she shall there serve the remainder of her term of sentence.

Pregnant  
females.  
1854, 416, § 2.  
1856, 40.  
G. S. 178, § 16.  
P. S. 220, § 17.

SECTION 98. If it appears to the physician of a house of correction that a female convict is pregnant, a justice of the superior court or of a police, district or municipal court may, upon application of the master or keeper of the house, order her to be removed to any workhouse in the same county for such term as is expedient; and, at any time before the expiration of her sentence, may cause her to be returned to the house of correction. The county shall pay two dollars a week for her support and custody to the city or town to which she is so removed.

Removal of  
prisoners  
committed by  
United States  
courts.  
1895, 273.

SECTION 99. The prison commissioners may remove from one jail or house of correction to another, or to the Massachusetts reformatory, or to the reformatory prison for women, a prisoner who has been sentenced to such jail or house of correction by any court of the United States.

Surgical  
treatment.  
1882, 207.

SECTION 100. They may, upon the certificate of the physician of a prison, jail or house of correction, temporarily place any prisoner who is under sentence of im-

prisonment therein or any person who is held in any jail for trial or sentence, except for a capital crime, in such hospital as they shall designate, for such surgical treatment or operation as cannot otherwise be safely or properly undertaken, and they may, at any time, return such prisoner or person to the prison, jail or house of correction from which he was temporarily removed. A prisoner or person so placed shall, during his absence from such prison, jail or house of correction, be deemed to be in the custody of the officer having charge thereof; and, in computing the term of his confinement upon his sentence to imprisonment, the time of his confinement in said hospital shall be considered as a part of such term.

*With the approval of the governor and council the board of prison commissioners is hereby authorized to erect on the land now occupied by the temporary industrial camp for prisoners at Rutland, suitable buildings to be used as a hospital prison for the confinement and treatment of prisoners having tubercular disease.*

Hospital for prisoners having tubercular disease to be erected. 1905, 355, § 1.

*When such buildings are ready for occupancy the prison commissioners may remove thereto any male prisoner in the state prison, the Massachusetts reformatory, the state farm, or in any jail or house of correction, who appears by the certificate of the prison physician to be suffering from consumption or any disease of a tubercular nature. They may at any time return to the original place of imprisonment any prisoner so removed. A prisoner shall be held in the place to which he is so removed or returned according to the terms of his original sentence.*

Removal of prisoners, etc. 1905, 355, § 2.

*Any order for the removal or return of a prisoner as provided herein may be executed by any officer authorized to serve criminal process; and a prisoner who makes an escape from such officer while being conveyed to or from said hospital prison, shall be deemed to have escaped from the prison to which he was originally committed.*

Orders for removal, escape of prisoners, etc. 1905, 355, § 3.

*A prisoner removed to said hospital prison shall be held in the custody of the superintendent of said tem-*

Custody, etc., of prisoners removed to

hospital  
prison.  
1906, 355, § 4.

Removal of  
insane pris-  
oners from  
state prison  
and reforma-  
tories.  
1844, 120.  
1856, 135.  
G. S. 180, §§ 1-3.  
1862, 8.  
1880, 250, § 5.  
P. S. 222, §§ 10,  
11.  
1885, 320, §§ 1, 2.  
1886, 101, § 4.  
1895, 390, § 3.  
1898, 433, §§ 24,  
28.  
173 Mass. 550.  
[1 Op. A. G.  
113.]

*porary industrial camp for prisoners, and shall be gov-  
erned, employed and treated according to such rules and  
regulations as may be established by the board of prison  
commissioners with the approval of the governor and coun-  
cil. Prisoners held in said hospital prison shall be sub-  
ject to all the laws that are now applicable to the temporary  
industrial camp for prisoners.*

SECTION 101. The state board of insanity shall design-  
ate two persons, experts in insanity, to examine prisoners  
in the state prison, the Massachusetts reformatory or the  
reformatory prison for women, who are alleged to be in-  
sane. If any such prisoner appears to be insane, the  
warden or superintendent shall notify one of the persons  
so designated, who shall, with the physician of the prison,  
examine the prisoner and report to the governor the re-  
sult of their investigation. If, upon such report, the  
governor considers the prisoner insane and his removal  
expedient, he shall issue his warrant, directed to the war-  
den or superintendent, authorizing him to cause the pris-  
oner, if a male, to be removed to the state asylum for  
insane criminals, and if a female, to be removed to one  
of the state insane hospitals, there to be kept until, in  
the judgment of the superintendent and trustees of the  
hospital to which the prisoner has been committed, he or  
she should be returned to prison. When the superintend-  
ent and trustees determine that the prisoner should be so  
returned, they shall so certify upon the warrant of the  
governor, and notice shall be given to the warden or super-  
intendent of the prison, who shall thereupon cause the  
prisoner to be reconveyed to the prison, there to remain  
pursuant to the original sentence, computing the time of  
his detention or confinement in the hospital as part of the  
term of his imprisonment. The person who makes such  
examination of a prisoner shall, if he is not a salaried  
officer of the state board of insanity, receive three dollars  
a day for his services for each day so employed and his  
actual travelling expenses, which shall be paid from the

annual appropriation of the prison in which the prisoner is examined.

SECTION 102. If a prisoner in a jail, house of correction or prison other than those named in the preceding section appears to be insane, the physician in attendance shall make a report thereof to the jailer or master, who shall transmit the same to one of the judges mentioned in section thirty-three of chapter eighty-seven.\* The judge shall make inquiry into the facts and, if satisfied that the prisoner is insane, shall, if a male, order his removal to the state asylum for insane criminals, or if a female, to one of the state insane hospitals, pursuant to the provisions of sections thirty-four and thirty-five of said chapter. A person so removed who becomes sane before the expiration of the sentence shall be forthwith returned to the prison or house of correction from which he or she was removed, there to remain pursuant to the original sentence, computing the time of confinement in the hospital as part of the term of imprisonment.

Removal of  
insane pri-  
soners in other  
prisons.  
R. S. 145, §§ 1, 2.  
1853, 259.  
G. S. 180, §§ 4, 5.  
1880, 250, § 6.  
P. S. 222, §§ 12,  
13.  
1895, 390, § 3.

SECTION 103. If a person who is held in jail for trial or for sentence, except for a capital crime, appears to be insane, he may be removed to the state asylum for insane criminals or if a female, to one of the state insane hospitals, in the same manner as a prisoner may be removed from a house of correction under the provisions of the preceding section. If a person so removed is, in the opinion of the trustees and superintendent of the hospital, restored to sanity, he shall forthwith be returned to the jail from which he was removed, where he shall be held in accordance with the terms of the process by which he was originally committed thereto.

Transfer of  
insane person  
held for trial,  
etc.  
1881, 165, §§ 1, 2.  
P. S. 222, § 14.  
1895, 390, § 3.

SECTION 104. A prisoner who is removed or returned under the provisions of the twenty-four preceding sections shall be held in the place of imprisonment to which he is so removed or returned, in accordance with the terms

Terms of orig-  
inal sentence  
to apply.  
1880, 208, § 3.  
P. S. 89, § 47.  
1884, 255, § 15.  
1890, 180, § 2;  
278, § 2.

\* A justice of the supreme court or of the superior court, a judge of probate, or a justice of a police, municipal or district court.

1894, 214, § 1;  
249, § 2.  
1895, 273.  
1899, 263, § 2.

**Order for  
removal.**

1876, 96, § 1.  
1879, 294, §§ 5, 9.  
P. S. 219, §§ 6,  
13.  
1884, 255, § 16.  
1885, 35, § 2.  
1890, 180, § 3;  
278, § 3.  
1894, 214, § 2.  
1895, 273.  
1899, 263, § 3.

**Officers  
qualified to  
make re-  
movals.**

1844, 120, § 2.  
G. S. 180, § 3.

**Expense of  
commitment.**  
1880, 120, § 2.  
P. S. 217, § 4.  
1884, 255, § 18.

**— of removal.**

1870, 370, § 6.  
1874, 385, § 18.  
1879, 229, § 4;  
294, § 8.  
1880, 120, § 4.  
P. S. 219, §§ 9,  
10.  
1884, 255, § 18.  
1885, 35, § 2.  
1890, 273, § 4.  
1894, 214, § 3.  
1895, 273.  
1903, 354.

**— of support.**  
1880, 156, § 2.  
P. S. 219, § 12.

of his original sentence, unless sooner discharged, and the period for which he is so removed shall be reckoned as a part of the term of his imprisonment.

SECTION 105. Every order of removal of the prison commissioners shall be signed by the secretary of the board and shall be directed to the officer by whom it is to be executed. All mittimuses, processes and other official papers by which a prisoner is committed or held, or attested copies thereof, shall, at the time of such removal, be transferred, with the order of removal, to the institution to which the prisoner is removed, and be kept therein as if he had been originally committed thereto; but if he is returned to the place from which he was removed, they shall be returned with him.

SECTION 106. An officer who is authorized to serve criminal process may execute an order of removal or return issued under the provisions of this chapter.

1870, 370, § 5.  
1874, 384, § 18.  
1879, 294, § 7.  
1880, 250, § 5.

P. S. 219, § 8;  
222, § 11.  
1884, 255, § 17.  
1885, 320, § 2.

1890, 180, § 3.  
1894, 214, § 2.  
1899, 263, § 3.

SECTION 107. The expense of the commitment of any person who is sentenced to imprisonment in the state prison, the Massachusetts reformatory or the reformatory prison for women shall be paid by the county from which the prisoner is committed, and shall be allowed in the same manner as other expenses in criminal cases.

SECTION 108. *The expense of removing prisoners from one jail or house of correction to another shall be paid by the county from which the prisoner is removed. The expense of removing prisoners from jails and houses of correction to any of the state institutions, or from any of the state institutions to a jail or house of correction, shall be paid from the treasury of the Commonwealth after approval by the prison commissioners.*

SECTION 109. The expense of supporting a prisoner who is transferred from the Massachusetts reformatory or the reformatory prison for women to a jail or house of correction shall be paid from the treasury of the common-

wealth, if the prisoner was not originally sentenced from the county in which such jail or house of correction is situated; but the bills therefor shall, before payment, be approved by the prison commissioners.

SECTION 110. The expense of supporting a prisoner who is transferred from a jail or house of correction in one county to another, who is removed from the state farm to a house of correction or who is sentenced to a jail or house of correction in a county other than that in which he was convicted shall be paid by the county in which he was sentenced. If the amount to be paid cannot be agreed upon by the county commissioners of the two counties, it may be determined by the superior court sitting in either county.

Expense of support.  
1866, 280, § 2.  
1870, 370, § 4.  
1880, 156, § 1.  
P. S. 219, § 11.  
1890, 278, § 4.

SECTION 111. The expense of supporting a state prison convict who is committed to a state insane hospital shall be paid by the commonwealth.\* The expense of supporting a prisoner who is removed from a jail or house of correction to the state farm shall be paid into the treasury of the commonwealth by the county from which he is removed, and the amount thereof shall be determined by the state board of charity. The expense of supporting a sick prisoner who is removed to the state farm under the provisions of section ninety-five, not exceeding three dollars and twenty-five cents a week, shall be paid by the county from which he is removed.

Same subject.  
1878, 96, § 2.  
1879, 294, § 6.  
P. S. 219, § 7.  
1883, 148, § 1.  
1886, 101, § 4.  
1894, 214, § 3.  
1898, 483, § 24.

SECTION 112. The governor, upon the written recommendation of the prison commissioners, may from time to time appoint any agent of the board a special district police officer for a term of three years, unless sooner removed. Such officer may serve warrants and orders of removal or transfer of prisoners issued by said commissioners, and shall be paid therefor such amount from the appropriation for removing prisoners as the commissioners determine.

Special district police.  
1899, 243.

\* On Jan. 1, 1904, the state took over the care and support of the insane in all places but Boston.

*Permits to be at Liberty, Release on Probation and Discharge.*

Deduction for  
good conduct.  
1857, 234, § 1.  
1858, 77.  
1859, 108.  
G. S. 178, § 47;  
179, § 51.  
1880, 218, §§ 1,  
3, 4.  
1881, 40.  
P. S. 222, §§ 20,  
22.  
1886, 323, § 7.  
1894, 258.  
1898, 443, § 1.  
13 Gray, 618.  
148 Mass. 168.  
172 Mass. 264.  
[1 Op. A. G. 9.]

SECTION 113. Every officer who is in charge of a prison or other place of confinement, except the Massachusetts reformatory and the state farm,\* shall keep a record of the conduct of each prisoner who is in his custody and whose term of imprisonment is four months or more. Every such prisoner, except a prisoner who was sentenced to the state prison for a crime which was committed on or after the first day of January in the year eighteen hundred and ninety-six, whose record of conduct shows that he has faithfully observed all the rules and has not been subjected to punishment shall be entitled to a deduction from the term of his imprisonment, which shall be estimated as follows: upon a sentence of not less than four months and less than one year, one day for each month; upon a sentence of not less than one year and less than three years, three days for each month; upon a sentence of not less than three years and less than five years, four days for each month; upon a sentence of not less than five years and less than ten years, five days for each month; upon a sentence of ten years or more, six days for each month. If a prisoner has two or more sentences, the aggregate of his several sentences shall be the basis upon which the deduction shall be estimated. A prisoner who is entitled to such deduction from the term of his imprisonment shall receive a written permit to be at liberty during the time so deducted, upon such terms as the board which grants the permit shall prescribe. Permits to prisoners in the state prison and in the reformatory prison for women shall be issued by the prison commissioners; to prisoners in the state farm, by the trustees; to prisoners in jails and houses of correction, except in the county of Suffolk, by the county com-

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\* This exception now includes the reformatory prison for women where the indeterminate sentence was applied in 1903.

missioners; to prisoners in the jails and house of correction in the county of Suffolk, by the penal institutions commissioner. If a prisoner violates any of the rules of his prison or other place of confinement, the board authorized by this section to grant permits shall decide what portion of the time, which would otherwise be deducted from the term of his imprisonment, shall be forfeited by such violation.

SECTION 114. If it appears to the prison commissioners that a prisoner who was sentenced to the state prison for a crime which was committed prior to the first day of January in the year eighteen hundred and ninety-six and who is serving his first sentence therein has reformed, they may, if, after deducting the time to which he is entitled by the preceding section, two-thirds of the minimum term of his sentence have expired, by a unanimous vote of all the members of the board, issue to him a permit to be at liberty during the remainder of his term of sentence upon such terms and conditions as they prescribe, if he has an assurance satisfactory to them that he will have employment as soon as he is discharged, or is otherwise so provided for that he will not become dependent upon public or private charity.

Permit to prisoner in state prison.  
1894, 440, § 1.  
1895, 252.  
1897, 206.  
[1 Op. A. G.  
324, 487, 541.]

SECTION 115. If the record of a prisoner who was sentenced to the state prison for a crime committed on or after the first day of January in the year eighteen hundred and ninety-six shows that he has faithfully observed all the rules of the prison and has not been subjected to punishment, the commissioners shall, upon the expiration of his minimum term of sentence, issue to him a permit to be at liberty therefrom during the unexpired portion of the maximum term of his sentence, upon such terms and conditions as they shall prescribe. If the record shows that he has violated the rules of the prison, he may be given a like permit at such time after the expiration of the minimum term of his sentence as the commissioners shall determine. If the prisoner is held

Same subject.  
1895, 504, § 2.  
1897, 234, § 2.  
1898, 240, 371.  
172 Mass. 264.



in the prison upon two or more sentences, he shall be entitled to receive such permit when he has served a term equal to the aggregate of the minimum terms of the several sentences, and he shall be subject to all the provisions of this section until the expiration of a term equal to the aggregate of the maximum terms of said sentences.

Permit to  
habitual  
criminal.  
1887, 435, § 2.

SECTION 116. If it appears to the governor and council that a prisoner who has been sentenced to the state prison as an habitual criminal has reformed, they may issue to him a permit to be at liberty during the remainder of his term of sentence, upon such terms and conditions as they prescribe.

—to prisoner in  
Massachusetts  
reformatory.  
1884, 256, § 33.  
1886, 323, § 4.  
1887, 375.  
1888, 317.  
1894, 249, § 2.  
148 Mass. 168.

SECTION 117. If it appears to the prison commissioners that a prisoner in the Massachusetts reformatory, or a prisoner who has been removed therefrom to a jail or house of correction, has reformed, they may issue to him a permit to be at liberty during the remainder of his term of sentence, upon such terms and conditions as they shall prescribe; but no such permit shall, without the consent of the governor and council, be issued to a prisoner who has been transferred thereto from the state prison. They may delegate to a committee of their board or to their secretary, until their next meeting, the authority to decide when such permit shall be issued.

— to prisoner  
in reformatory  
prison for  
women.  
1880, 221, § 3;  
247, § 2.  
1881, 90, § 1.  
P. S. 220, § 68;  
221, § 52.  
1888, 192.  
[This section  
applies only to  
prisoners  
sentenced for  
offences com-  
mitted prior  
to July 1,  
1903. See  
Acts of 1903,  
chap. 209,  
page 18.]

[SECTION 118. If it appears to the prison commissioners that a prisoner in the reformatory prison for women, or a prisoner who has been removed therefrom to a jail or house of correction, has reformed, they may issue to her a permit to be at liberty during the remainder of her term of sentence; but no permit shall, without the consent of the court which imposed the sentence, or, if the sentence was imposed by the superior court, without the consent of the district attorney for the county in which she was convicted, be issued to a prisoner who has been sentenced for a crime against person or property.]

— to rogues,  
vagabonds,  
etc.  
1834, 151, § 8.

SECTION 119. If it appears to the county commissioners, or, in the county of Suffolk, to the penal institutions

commissioner of the city of Boston, that a prisoner in a house of correction or workhouse who has been convicted of an offence named in section forty-six of chapter two hundred and twelve has reformed and is willing and desirous to return to an orderly course of life, they may issue to him a permit to be at liberty during the remainder of his term of sentence.

R. S. 143, § 18.  
G. S. 178, § 17.  
1862, 189.  
1866, 235, § 5.  
P. S. 220, § 66.  
1864, 163, § 4.

SECTION 120. If it appears to the state board of charity that a person who has been imprisoned for drunkenness at the state farm has reformed, or if it appears to the county commissioners, or, in the county of Suffolk to the penal institutions commissioner of the city of Boston, that a person who has been imprisoned for drunkenness in a jail, house of correction or other place of confinement has reformed, they may issue to him a permit to be at liberty during the remainder of his term of sentence.

Permit  
to persons  
imprisoned for  
drunkenness.  
1880, 221, § 3;  
247, § 2.  
P. S. 220, § 68.  
1886, 375.  
1886, 101, § 4.  
1898, 443, § 2.

SECTION 121. A probation officer may, with the consent of the county commissioners, or, in the county of Suffolk, of the penal institutions commissioner of the city of Boston, investigate the case of any person who is imprisoned in a jail or house of correction upon a sentence of not more than six months, or upon a longer sentence of which not more than six months remain unexpired, for the purpose of ascertaining the probability of his reformation if released from imprisonment. If, after such investigation, he recommends the release of the prisoner, and the court which imposed the sentence, or, if the sentence was imposed by the superior court, the district attorney, certifies a concurrence in such recommendation, the county commissioners or the penal institutions commissioner may, if they consider it expedient, release him upon probation, upon such terms and conditions as they may prescribe and may require a bond for the fulfilment of such conditions. The surety upon any such bond may at any time take and surrender his principal, and the county commissioners or the penal institutions commissioner may at any time order any prisoner released by

Release on  
probation.  
1880, 129, § 6.  
1881, 34, §§ 1, 2.  
P. S. 220, § 69.  
1891, 356, § 7.  
1902, 227.

them upon probation to return to the prison from which he was released. The provisions of this section shall not apply to persons held upon sentence of the courts of the United States.

Discharge  
from state  
farm.

1876, 96, § 1.  
1879, 294, § 5.  
P. S. 219, § 6.  
1887, 292, § 2.  
1890, 278, § 2.  
1899, 263, § 2.

SECTION 122. The state board of charity shall have the same power to discharge a person who has been removed from a jail or house of correction to the state farm or from the state farm to a house of correction as it would have to release him from the state farm if he had been originally sentenced thereto, and shall have the same authority to release a prisoner who has been removed thereto from the Massachusetts reformatory as the prison commissioners would have to release him from said reformatory.

— from house  
of correction.  
1855, 69, § 2.  
G. S. 178, § 18.  
1877, 147.  
P. S. 220, § 67.  
1895, 449, § 16.

SECTION 123. The county commissioners, or, in the city of Boston, the penal institutions commissioner, subject to the approval of a justice of the court which imposed the sentence, after six months from the time of sentence, may discharge a person sentenced to the house of correction, and the directors of a workhouse may discharge a person sentenced thereto upon a conviction under the provisions of section fifty-five of chapter two hundred and twelve of being a common night walker, if they are satisfied that the prisoner has reformed, or, for any term during the period of the sentence, they may bind out such prisoner as an apprentice or servant to any inhabitant of this commonwealth. Said commissioners and directors and the master, mistress, apprentice or servant shall have all the rights and privileges and be subject to all the duties set forth in chapter one hundred and fifty-five, as if the prisoner had been bound out by the overseers of the poor; and the relations of the parties shall not be affected by the age of the person bound. If the master or mistress is discharged from the contract of service or apprenticeship as provided in said chapter, the person bound shall be returned to the place of confinement and shall serve out the original sentence, if any portion thereof is

unexpired; but the commissioners or directors shall not be liable to the costs of the process provided in said chapter.

SECTION 124. A prisoner who has been confined in a prison or other place of confinement eight days for non-payment of a fine or of fine and expenses not exceeding five dollars, twenty days for the non-payment of a fine or fine and expenses not exceeding ten dollars, thirty days for non-payment of a fine or fine and expenses not exceeding twenty dollars, shall be discharged.

Discharge  
of prisoners  
committed for  
non-payment  
of fine.  
1842, 59.  
G. S. 180, § 7.  
1865, 44, § 1.  
P. S. 222, § 15.  
1899, 226.

SECTION 125. The justices of police, district and municipal courts and trial justices may discharge from the jail persons who are confined for the non-payment of fine, or of fine and expenses not exceeding ten dollars, if they are of opinion that such persons are not able to pay the same, or that it is otherwise expedient; but no fees shall be allowed to any person for such service.

— of poor  
prisoners.  
1821, 109.  
R. S. 87, § 16.  
G. S. 180, § 8.  
1866, 284.  
P. S. 222, § 16.

SECTION 126. If a poor prisoner has been confined in a jail or house of correction for three months for fine or fine and expenses only, the jailer, master or keeper shall make a report thereof, in the county of Suffolk, to the municipal court of the city of Boston, in the county of Nantucket, to a trial justice and in other counties, to a police or district court. The court or trial justice shall inquire into the truth of the report and may require the jailer or keeper to bring the prisoner into court. If the court or trial justice finds that the report is true, and that the prisoner since his conviction has not had any property, real or personal, with which he could have paid the amount for which he was committed, and that he is held for no other cause, the court or trial justice shall order the sheriff, master or keeper to discharge the prisoner. A person under guardianship may have the benefit of the provisions of this section, although it appears that he has property held under guardianship, if it also appears that such property is beyond his actual control, and if he is discharged, the commonwealth may, in an

— of poor  
prisoners.  
1789, 7.  
1802, 1.  
1805, 69.  
1833, 9.  
R. S. 145, § 3.  
1850, 185, §§ 1, 2.  
G. S. 180, §§ 6,  
9, 10.  
P. S. 222, §§ 17-  
19.  
1882, 201.

action of tort brought within one year after the discharge, recover from his guardian, if he has assets, the amount of fine or fine and expenses which remain unpaid.

Acts rendering  
permit void.  
1884, 152, §§ 1, 4;  
255, § 33.  
1887, 435, § 2.  
1894, 440, § 1.  
1895, 252; 504,  
§ 2.  
1897, 206.  
1898, 240, 371.

SECTION 127. The violation by the holder of a permit to be at liberty granted under the provisions of sections one hundred and thirteen, one hundred and fourteen and one hundred and sixteen to one hundred and twenty, inclusive, of any of the terms or conditions of his permit or the violation of any law of this commonwealth shall of itself make his permit void. If the holder of a permit issued under the provisions of section one hundred and fifteen violates any of its terms or conditions or violates any law of the commonwealth before the expiration of his maximum term and is convicted thereof either before or after said expiration, such permit shall thereby become void.

Revocation of  
permits.  
1880, 218, § 1;  
221, § 3; 247, § 2.  
1881, 90, § 1.  
P. S. 220, § 68;  
221, § 52; 222,  
§ 20.  
1884, 152, § 4;  
255, § 33.  
1886, 323, § 4.  
1887, 435, § 2.  
1894, 258; 440,  
§ 1.  
1895, 252; 504,  
§ 2.  
1897, 206.  
1898, 371.

SECTION 128. The board, commissioners or officer issuing to a prisoner a permit to be at liberty under the provisions of sections one hundred and thirteen and one hundred and seventeen to one hundred and twenty, inclusive, may revoke it at any time previous to its expiration, and the prison commissioners may revoke such permit issued under the provisions of section one hundred and fifteen at any time before the expiration of the maximum term for which it was issued, and shall revoke it when they have knowledge that the person to whom it was issued has been convicted of a crime which is punishable by imprisonment.

Certain pris-  
oners released  
on probation  
or permit may  
be arrested,  
etc.  
1880, 129, §§ 7,  
10; 218, § 2;  
221, § 4.  
1881, 90, § 2.  
P. S. 220, § 70;  
221, § 53; 222,  
§ 21.  
1884, 152, §§ 2, 4;  
255, § 34.  
1886, 323, § 4.  
1887, 292, § 2;  
435, § 3.  
1888, 192.

SECTION 129. *The prison commissioners, the state board of charity, the county commissioners, the directors of a workhouse, or, in the county of Suffolk, the penal institutions commissioner of the city of Boston, if a permit to be at liberty issued by them, respectively, to a prisoner under the provisions of sections one hundred and thirteen to one hundred and fifteen, inclusive, and one hundred and seventeen to one hundred and twenty, inclusive, has become void or has been revoked, or if a*

*prisoner on probation under section one hundred and twenty-one has been ordered to return to the prison from which he was released, may issue an order authorizing the arrest of the holder of such permit or of such prisoner on probation, by any officer qualified to serve civil or criminal process in any county, and the return of such holder, or of such prisoner on probation, to the prison from which he was released. The governor, if a permit to be at liberty issued to an habitual criminal under the provisions of section one hundred and sixteen has become void or has been revoked, shall issue his warrant authorizing the arrest of the holder thereof by any officer qualified to serve criminal process, and his return to state prison. A prisoner who has been so returned to his place of confinement shall be detained therein according to the terms of his original sentence. In computing the period of his confinement the time between his release upon a permit, or on probation, and his return to prison, shall not be considered as any part of the term of his original sentence. If at the time of the order to return to prison or of the revocation of his permit he is confined in any prison, service of such order shall not be made until his release therefrom.\**

SECTION 130. A prisoner whose term expires on Sunday shall be discharged on the preceding Saturday.

1864, 194, § 1.

P. S. 222, § 24.

Discharge on Saturday if term ends on Sunday.

SECTION 131. A prisoner, who at the expiration of his sentence, is in such condition from bodily infirmity or disease as to render his removal impracticable shall be suitably cared for in the prison or other place of confinement until he is in a condition to be removed. The expense of his support, not exceeding three dollars and fifty cents a week, shall be paid by the city or town in which he has a legal settlement, after notice to the overseers thereof, or, if he is a state pauper, to the state board of charity, of the expiration of his sentence and of his condition.

Sick prisoner to be cared for in prison after expiration of sentence. 1853, 388. G. S. 71, §§ 40-42. 1864, 169. 1874, 170, § 1. P. S. 222, § 25.

\* See also Acts of 1903, chapter 209, section 5, p. 19; Acts of 1904, chapter 243, section 3, p. 54.

## PARDONS.

Pardons by  
governor.  
Const., pt. 2,  
c. 2, § 1, art. 8.  
1808, 117.  
R. S. 142, § 12.  
G. S. 177, § 12.  
P. S. 218, § 12.  
135 Mass. 48.  
[1 Op. A. G.  
199.]

SECTION 132. In a case in which the governor is authorized by the constitution to grant a pardon, he may, with the advice and consent of the council, and upon the petition of the prisoner, grant it, subject to such conditions, restrictions and limitations as he considers proper, and he may issue his warrant to all proper officers to carry such pardon into effect. Such warrant shall be obeyed and executed, instead of the sentence originally awarded.

Rearrest of  
pardoned  
prisoner.  
1837, 181, § 2.  
G. S. 177, § 14.  
1867, 301, § 1.  
P. S. 218, § 13.

SECTION 133. If a prisoner who has been pardoned upon conditions to be observed and performed by him violates such conditions, the warden, superintendent or keeper, respectively, of the institution in which the prisoner was confined shall forthwith cause him to be arrested and detained until the case can be examined by the governor and council; and the officer who makes the arrest shall forthwith give notice thereof in writing to the governor and council.

Confinement  
for unexpired  
term of sen-  
tence.  
1837, 181, § 3.  
G. S. 177, § 16.  
1867, 301, § 2.  
1881, 164.  
P. S. 218, § 14.  
1882, 197.  
111 Mass. 448.  
135 Mass. 48.

SECTION 134. The governor and council shall, upon receiving such notice, examine the case of such prisoner, and, if it appears by his own admission or by evidence that he has violated the condition of his pardon, the governor, with the advice and consent of the council, shall order him to be remanded and confined for the unexpired term of his sentence, said confinement, if the prisoner is under any other sentence of imprisonment at the time of said order, to begin upon the expiration of such sentence. In computing the period of his confinement, the time between the conditional pardon and subsequent arrest shall not be taken to be part of the term of his sentence. If it appears to the governor and council that he has not broken the conditions of his conditional pardon, he shall be discharged.

Execution of  
warrant of  
pardon.  
R. S. 142, § 13.

SECTION 135. If a prisoner is pardoned or his punishment is commuted, the officer to whom the warrant for

such purpose is issued shall, as soon as may be after executing it, make return thereof, signed by him, with his doings thereon, to the secretary's office, and shall file in the office of the clerk of the court in which the offender was convicted an attested copy of the warrant and return and the clerk shall subjoin a brief abstract thereof to the record of the conviction and sentence.

G. S. 177, § 17.  
P. S. 218, § 15.  
[1 Op. A. G.  
616.]

#### AID TO DISCHARGED PRISONERS.

SECTION 136. The prison commissioners may employ an agent for aiding prisoners who have been discharged from the state prison, at an annual salary of sixteen hundred dollars, payable by the commonwealth, who, in addition to his other duties, shall assist the secretary of the board. They may also employ three other agents, at an annual salary of twelve hundred dollars each, payable in like manner. Said agents shall endeavor to secure employment for prisoners who have been permanently discharged or released on *permit from the state prison or the Massachusetts reformatory, provide said prisoners with needed assistance*, and perform such other duties relative to such discharged or released prisoners as the board requires. They shall also obtain information for the board relative to prisoners who have been committed to institutions under its supervision, especially as to the details of their offences and their previous character and history. They may, for that purpose, require of the police authorities any facts in their possession relative to such prisoners if the communication thereof will not, in the opinion of said authorities, be detrimental to the public interest. They shall be reimbursed for the necessary expenses actually incurred by them in the performance of their official duties, after their bills therefor have been approved by the commissioners. The commissioners may expend not more than three thousand dollars annually for the assistance of prisoners discharged from the state prison and not more than five thousand dollars annually for the

Aid to discharged prisoners. Agents.  
1845, 176.  
1848, 82.  
1852, 213, § 1.  
G. S. 180, §§ 64, 66, 68.  
1861, 78.  
1869, 122.  
1871, 302.  
1879, 294, § 27.  
1881, 179.  
P. S. 219, § 26.  
1884, 255, § 35.  
1887, 315, 396.  
1888, 322, § 2.  
1895, 383.  
1897, 350, § 1.  
1903, 212.



assistance of prisoners discharged from the Massachusetts reformatory or from any institution to which he was removed from said reformatory.\*

Female agent.  
1879, 294, § 27.  
1881, 179.  
P. S. 219, § 27.  
1886, 177.  
1888, 390, 417.  
1897, 350, § 2.  
1905, 285.

SECTION 137. The commissioners may also employ, at an annual salary of one thousand dollars, payable by the commonwealth, a woman as their agent in rendering assistance to female prisoners discharged from the prisons in this commonwealth. She shall counsel and advise them, assist them in obtaining employment and, under the direction of the commissioners, may render them pecuniary aid. The commissioners may expend not more than three thousand dollars annually for the assistance of discharged female prisoners and may pay therefrom to the Temporary Asylum for Discharged Female Prisoners, or to any charitable institution of a similar nature, such amount as they shall determine for the support of women charged with crime whose cases are disposed of without sentence.

Account of  
expenditures  
by agents.  
1845, 176, § 2.  
1848, 82, § 2.  
1852, 213, § 2.  
G. S. 180, § 66.  
1879, 294, § 28.  
P. S. 219, § 28.

SECTION 138. The commissioners shall cause an account to be kept of the money expended by the agents for the necessary expenses of the service required by the two preceding sections, for correspondence and travel in procuring employment for and furnishing clothing, board and tools to discharged prisoners and for conveying them to their homes or places of employment; which, upon approval by the auditor, shall be paid at the end of each month.

Warden may  
pay over to  
agent money  
authorized to  
be paid to  
prisoner.  
1827, 118, § 13.  
R. S. 144, § 53.  
1849, 148.  
1852, 213, § 3.  
G. S. 179, § 63;  
180, § 67.  
1879, 294, § 29.  
P. S. 219, § 29;  
221, § 42.

SECTION 139. The warden of the state prison may pay from the treasury of the prison not more than five dollars to any prisoner leaving the prison who, in the opinion of the warden, by his good conduct deserves it, or he may, in his discretion, pay it to the agents appointed under the provisions of section one hundred and thirty-six, who shall expend for the benefit of such prisoners what they thus

\* Prisoners discharged from the temporary industrial camp for prisoners may also be assisted from this appropriation. Acts of 1904, chapter 243, section 4, p. 54.

receive, and shall account therefor to the commissioners. A prisoner who leaves the state prison shall be provided with decent clothing.

SECTION 140. The agent for aiding prisoners who have been discharged from the state prison and the agent for aiding discharged female prisoners shall annually, on or before the fifteenth day of October, make full and detailed statements to the commissioners of their doings for the year ending on the thirtieth day of September,\* which shall be included by the commissioners in their annual report.

Annual report  
of agents.  
1846, 78.  
1857, 40.  
1858, 46.  
G. S. 180, § 68.  
1879, 294, § 80.  
P. S. 219, § 80.

SECTION 141. The county commissioners may provide a prisoner who is released from prison on probation with such amount of money as in their opinion can be wisely used to encourage his reformation, or they may pay it to a probation officer to be used for such prisoner.

Aid by county  
commission-  
ers.  
1880, 129, § 9.  
P. S. 220, § 71.

SECTION 142. The master or keeper of a jail or house of correction may, with the approval of the county commissioners, expend such amount, not exceeding ten dollars, in aiding a prisoner discharged from his custody as in his opinion will assist such prisoner in his endeavor to reform. He may, in his discretion, pay it to the prisoner, or to some person selected by the master or keeper to be expended by him in behalf of the prisoner or for providing the prisoner with board, clothing, transportation or tools. The amount so paid by a master or keeper shall be allowed and paid by the county like other prison expenses.

— by keeper of  
jail, etc.  
1881, 128.  
P. S. 220, § 64.  
[ 1 Op. A. G.  
281.]

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\* This date will be changed by chapter 211, Acts of 1905, which establishes November 30 as the end of the fiscal year.

## MISCELLANEOUS PROVISIONS

FROM THE

### REVISED LAWS

WITH AMENDMENTS AND ADDITIONS.

#### CHAPTER 6.

##### ACCOUNTS OF INSTITUTIONS.

Accounts of institutions to be kept under direction of the auditor. 1887, 87, §§ 1, 3.

SECTION 16. The accounts of all state, penal and charitable institutions, and all other public institutions, for the support of which appropriations are annually made, shall be kept at such institutions under the direction of the auditor, and shall be as nearly uniform as the nature of the institutions will permit.

The fiscal year for the Commonwealth to begin December 1, etc. 1906, 211, § 1.

The fiscal year of all offices, departments, boards, commissions, hospitals, asylums, charitable, penal and reformatory institutions of the Commonwealth shall begin with the first day of December and end with the following thirtieth day of November, and all books and accounts therein shall be kept by fiscal years as herein established, and the annual reports of all officers, trustees, boards and commissions, except the report of the insurance commissioner and except those reports otherwise provided for in this act, shall be made to the governor and council, or to the general court, as now required by law, except that they shall be made on or before the third Wednesday in January, anything in any general or special statute now existing to the contrary notwithstanding. Such reports shall be deposited with the secretary of the Commonwealth, who shall transmit them to the governor and council or to the general court. The financial statements now required by law to be included

therein shall be made for the fiscal year as herein established. The annual meetings of trustees of state institutions and of state boards, at which financial statements are required by law to be presented, shall be held in the month of December in each year.

SECTION 17. The auditor shall prescribe the number and form of all analytical or subsidiary accounts, which shall be made from the accounts of record kept at each institution. Such accounts shall also show the expenditures, and the estimated cash value of the products of the department of the institution to which it relates, whether sold or applied to the use of the institution, and also as nearly as may be the value of the labor of the inmates entering into such production. The accounts shall, at all times, show the financial condition of the institution; but no inventory shall be required, unless provided by law. The auditor may expend such amount as may be necessary to comply with the requirements of this and the preceding section.

Auditor to prescribe form of accounts. 1887, 87, §§ 2, 4, 5.

SECTION 19. All original bills and vouchers on which money has been or may be paid from the treasury upon the certificate of the auditor or the warrant of the governor shall be kept in the auditor's department; and all boards, commissions or public officers authorized to make contracts under which money may be payable from the treasury shall file with the auditor certified copies thereof.

Bills, etc., to be deposited with auditor. 1867, 178, § 4. 1878, 187, § 1. P. S. 16, § 4.

SECTION 26. Every officer or board having charge of any department requiring an expenditure of money from the treasury of the commonwealth, shall annually, on or before the fifteenth day of *November*, submit to the auditor of accounts estimates in detail and in tabular form showing the amounts appropriated for the *preceding* fiscal year and the amounts required for the *current* fiscal year, with an explanation of the necessity of any new or increased or decreased expenditures, and citations of the statutes relating thereto. The auditor shall embody such estimates, with those for his own department,

Annual estimates of appropriations. 1905, 211, § 6.

in one document, which shall be printed and laid before the general court on the *first* Wednesday of the succeeding January.

Advances  
from the  
treasury.  
1884, 179, §§ 1, 4.  
1888, 322, § 1.  
1890, 58.  
1891, 54.  
1894, 245, 314.  
1895, 10.  
1899, 54.  
1900, 266.  
1901, 303, § 3.

SECTION 35. Officers who are authorized to expend money in behalf of the commonwealth may have money advanced to them from the treasury, not exceeding at any one time the following amounts: . . . the board of prison commissioners, for aiding prisoners who have been discharged from the Massachusetts reformatory, five hundred dollars; . . . other public officers, except as otherwise provided, not more than one hundred and fifty dollars at any one time.

Officer to cer-  
tify immediate  
need.  
1884, 179, § 2.

SECTION 36. Such officers shall certify that the amount is needed for immediate use, and, as specifically as may be, the purposes for which the expenditure is required. The certificate shall bear the approval of the board having the supervision of such expenditure and, when filed with the auditor of accounts, his certificate and the warrant and payment shall follow as in case of claims against the commonwealth.

Statement in  
detail to  
auditor.  
1884, 179, § 3.  
1890, 58, §§ 1, 3.  
1905, 211, § 8.

SECTION 37. Such officers shall, within thirty days after the receipt of an advance, file with the auditor a detailed statement of the amounts expended subsequent to the previous accounting, approved by the board authorized to supervise such expenditure, and vouchers therefor if they can be obtained. All advances so made shall be accounted for and vouchers therefor filed with the auditor before the *first* day of December in each year.

Purchases by  
officers regu-  
lated.  
1858, 11, § 7;  
158, § 13.  
G. S. 15, § 41.  
1878, 187, § 2.  
P. S. 16, § 87.  
1905, 211, § 10.

SECTION 40. No officer shall make purchases or incur liabilities in the name of the commonwealth for a larger amount than has been appropriated for the service or purpose for which such purchases have been made or liabilities incurred; and the commonwealth shall not be responsible for the acts of its servants and officers for any amount in excess of its appropriations. Officers or boards may continue their several departments during the *months of December and January*, until the general court otherwise

orders, at the rate of expenditure authorized by the appropriations for the preceding year. If expenditures are made in excess of appropriations, the officers having charge of such expenditures shall annually, on or before the fifteenth day of *December*, report to the auditor the details of such expenditures with the reasons therefor, and the auditor shall make a special report of the same to the general court early in its session.

SECTION 41. No public officer or board shall incur a new or unusual expense, make a permanent contract, increase a salary or employ a new clerk, assistant or other subordinate unless a sufficient appropriation to cover the expense thereof has previously been made by the general court.

Same subject.  
1858, 158, § 14.  
G. S. 15, § 42.  
P. S. 16, § 38.  
1897, 128, § 2.

SECTION 42. No permanent improvement, alteration or addition shall be made in a building belonging to the commonwealth until a specific description of the intended change and an estimate of the expense thereof have been submitted to the general court, and until a specific appropriation has been made therefor. No board or officer shall insure any property of the commonwealth without special authority of law.

Improve-  
ments, etc., in  
public build-  
ings, not to be  
made without  
an appropri-  
ation.  
1859, 177, § 1.  
G. S. 15, § 43.  
1879, 296.  
P. S. 16, § 39.

SECTION 56. Officers of public institutions and of departments of the commonwealth receiving fees or other money payable into the treasury shall pay them over at least once in each month.

Fees to be paid  
into state treas-  
ury monthly.  
1874, 380, § 1.  
P. S. 16, § 52.

SECTION 57. If sales of the property of the commonwealth are made by any officer of a state institution, the superintendent thereof shall submit to the trustees or other supervising board an itemized account, under oath, of such sales, for their approval in the same manner as accounts for materials and supplies for such institutions are approved, and such account shall be filed with the treasurer and receiver general when the proceeds of such sales are paid over to him.

Itemized  
account of  
sales of state  
property.  
1884, 326.

## CHAPTER 11.

## RETURN OF VOTERS IN PRISON.

Names of  
decedents, etc.,  
to be sent to  
registrars.  
1884, 298, § 30.  
1886, 264, § 4.  
1889, 404, § 5.  
1890, 423, § 39.  
1892, 351, § 39.  
1893, 417, § 23.  
1898, 548, § 24.  
1900, 241.  
1901, 441.

SECTION 23. . . . The prison commissioners of Massachusetts, the penal institutions commissioner of Boston, . . . shall, ten days before every state election in Boston, transmit to the election commissioners of Boston the names of all male persons of twenty-one years of age or upwards who had a last known residence in Boston, and also ten days before every city election in that city, the names of all male and female persons of said age or upwards who had such residence and who, at said respective dates, are inmates of the institutions under their charge, respectively, except those whose terms of confinement expire before the date of such election. Such commissioners . . . shall make diligent inquiry as to the age and residence of inmates of such institutions, and shall, in the case of those coming within the provisions of this section, transmit to the election commissioners the names and ages of such persons and their residences by street and number, wherever it is possible to do so. . . .

## CHAPTER 13.

## COLLECTION (OF TAX) BY IMPRISONMENT.

Imprisonment  
for non-pay-  
ment of tax.  
1785, 70, § 2.  
R. S. 8, § 11.  
G. S. 12, § 13.  
P. S. 12, § 14.  
1888, 390, § 18.  
1893, 241.  
1901, 408.  
13 Met. 85.  
9 Gray, 190.  
13 Gray, 93.  
3 Allen, 5.

SECTION 26. If a person refuses or neglects to pay his tax for fourteen days after demand and the collector cannot find sufficient goods upon which it may be levied, he may take the body of such person and commit him to jail until he pays the tax and charges of commitment and imprisonment, or is discharged according to law; but a person committed for the non-payment of a poll tax shall not be detained in jail more than seven days.

Certificate of  
cause of com-  
mitment.  
1785, 70, § 11.  
R. S. 8, § 13.  
G. S. 12, § 14.  
P. S. 12, § 15.  
1888, 390, § 19.  
1893, 334, § 5.

SECTION 27. A collector who commits a person to jail shall give to the keeper thereof a certificate signed by him, stating that he has committed the person for non-payment of his tax for fourteen days after demand therefor, and for want of goods and chattels whereof to make

distress, and setting forth the amount said person shall pay for said tax, interest, charges and fees.

SECTION 28. Upon the request of a person who has been committed to jail for the non-payment of a tax, the jailer shall forthwith inform some magistrate having authority to examine poor debtors that the debtor desires to take the oath for the relief of poor debtors. The magistrate shall thereupon appoint a time and place for the examination of the debtor, and shall direct the jailer to cause the debtor to be present at the examination. The notice which is required by section thirty-three of chapter one hundred and sixty-eight\* to be given to the creditor may be given to any one of the assessors or to the collector of the city or town in which the tax was assessed, any of whom may appear at the examination and do all things which a creditor might do upon an arrest or execution. If a debtor is unable to pay such tax, he may be discharged in the same manner as if he were committed upon an execution.

Discharge of debtor upon poor debtor oath.  
1790, 42, §§ 1-4.  
R. S. 8, §§ 48, 49.  
1887, 141, § 24.  
G. S. 12, § 15.  
P. S. 12, § 16.  
1888, 390, § 20.

SECTION 29. The collector shall be liable for the tax and the charges of imprisonment of a person who is discharged, unless he arrested and committed such person within one year after the tax was committed to him for collection, or unless he shall be exonerated therefrom by the city or town to which the tax is due.

Liability of collector if debtor discharged.  
1790, 42, § 6.  
R. S. 8, § 50.  
G. S. 12, § 16.  
P. S. 12, § 17.  
1888, 390, § 21.  
3 Met. 152.

## CHAPTER 16.

### PRISON OFFICERS EXEMPT FROM MILITARY DUTY.

SECTION 3. In addition to the persons exempted by the laws of the United States from enrolment in the militia, the following persons shall also be absolutely exempt: . . . superintendents, officers and assistants employed in or about *any* of the state hospitals, state almshouses, state prisons, jails or houses of correction; . . .

Exemptions  
U. S. Rev. Sts., § 1629.  
P. S. 14, § 2.  
1887, 411, § 2.  
1893, 367, § 2.  
4 Mass. 239.  
13 Mass. 316.  
14 Mass. 394.  
17 Mass. 49.  
1 Pick. 261.  
2 Pick. 597.  
23 Pick. 208.  
1905, 465, § 3.

\* Notice issued by police, district or municipal court or trial justice.



## CHAPTER 18.

## OFFICE HOURS.

Office hours of  
state depart-  
ments.  
1903, 229, § 1.

SECTION 13. *The offices of all the departments of the state government shall be open to the public for the transaction of business daily, except on Sundays and legal holidays, from nine o'clock in the forenoon until five o'clock in the afternoon, except on Saturdays, when they may be closed at twelve o'clock, noon. The treasurer and receiver general shall not be required to keep his office open for the receipt and payment of money later than two o'clock in the afternoon.*

## CHAPTER 18.

## EMPLOYEES NOT TO TAKE FEES.

Employees not  
to receive fees.  
1865, 259, § 3.  
P. S. 21, § 11.

SECTION 15. No person employed in any department shall receive for his own use any fee for copying public records or documents, or for other services during office hours, but all fees therefor shall be paid into the treasury of the commonwealth. Whoever violates the provisions of this section shall be disqualified for employment in any department of the state government.

## CHAPTER 20.

## PLANS APPROVED BY PRISON COMMISSIONERS.

Plans for jails,  
etc., to be ap-  
proved.  
1897, 316.

SECTION 28. If no provision is made for the approval of plans by a special board other than the county commissioners, all plans for the construction or enlargement of a jail, house of correction or reformatory shall be approved by a vote of the board of prison commissioners; and no bills for such construction or enlargement shall be incurred or paid until the plans have been so approved by a majority of such board.

## CHAPTER 21.

## PAYMENTS BY COUNTY OFFICERS.

SECTION 42. Sheriffs, masters of houses of correction, keepers of jails or of truant schools, or other public officers, when making payment to county treasurers of public funds, shall deliver therewith a sworn certificate of such details as the controller of county accounts prescribes. . . .

Sworn certificates of certain officers to accompany payments to treasurers. 1893, 270, § 2. 1901, 109.

SECTION 43. Each county treasurer shall annually, in January, return to the controller of county accounts a statement, under oath, of all fines, forfeitures, expenses, fees and money received by him in criminal matters during the preceding year, from whom they were received, and the name of each magistrate or officer who has failed to account for and pay over the same to him and what proceedings have been taken by reason of such failure. He shall also annually, on or before the fifteenth day of October, make a return to the prison commissioners, upon blanks to be provided by them, of all amounts paid or received by him on account of any jail or house of correction for the year ending on the preceding thirtieth day of September.

County treasurers to make annual return to county controller of fines, etc., received. C. L. 151, § 4. 1874, 394, § 5. P. S. 23, § 30. 1891, 187. 1892, 430.

## CHAPTER 23.

## SHERIFF'S COMPENSATION AS JAILER OR MASTER.

SECTION 19. A sheriff who personally performs the duties of jailer or master of the house of correction may receive, in addition to his salary as sheriff, the compensation established by law for such services; but not more than one thousand dollars a year.

Extra compensation in certain cases. 1860, 92. P. S. 25, § 23.

## CHAPTER 29.

## NOTICE OF BIRTH AND DEATH IN PRISON.

SECTION 6. . . . The keeper, superintendent or person in charge of a workhouse, house of correction, prison, reformatory, hospital, almshouse or other institution, public or private, which receives inmates from within or

Notice of births and deaths. C. L. 130, § 2. 1892-3, 48. 1795, 69, § 2. R. S. 15, § 47. G. S. 21, § 2.

P. S. 32, § 2.  
1897, 444, § 6.

without the limits of the city or town in which it is located shall, when a person is received, obtain a record of all the facts which would be required for record in the event of the death of such person, and shall, on or before the fifth day of each month, give notice to the city or town clerk of every birth and death among the persons under his charge during the preceding month. The facts required for record by section one shall, so far as known or obtainable, be included in every notice given under the provisions of this section.\*

Penalty for  
neglect to re-  
port.  
1795, 89, § 2.  
R. S. 15, § 47.  
G. S. 21, § 2.  
P. S. 32, § 2.  
1897, 444, § 8.

SECTION 8. A parent, keeper, superintendent or other person who is required by section six to give or cause to be given notice of a birth or death, who neglects so to do for ten days after the time limited therefor, . . . shall forfeit not more than five dollars for each offence.

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\* The provisions of section one of this chapter relative to births and deaths are as follows:—

SECTION 1. Each city and town clerk shall receive or obtain and record in separate columns the following facts relative to the births, marriages and deaths in his city or town:—

In the record of births, the date of the record, the date of birth, the place of birth, the name of the child, the sex and color of the child, the names and places of birth of the parents, including the maiden name of the mother, the occupation of the father, and the residence of the parents. In the record of the birth of an illegitimate child the name of, and other facts relating to, the father shall not be recorded except at the request in writing of both father and mother. The term "illegitimate" shall not be used in the record of a birth unless the illegitimacy has been legally determined, or has been admitted by the sworn statement of both the father and mother.

In the record of deaths, the date of the record, the date of the death, the name of the deceased, the sex, the color, the condition (whether single, widowed, married or divorced), the supposed age, the residence, the occupation, the place of death, the place of birth, the names and places of birth of the parents, the maiden name of the mother, the disease or cause of death, the place of burial, the name of the cemetery, if any, and if the deceased was a married or divorced woman or a widow, her maiden name and the name of her husband. The word "residence", as used in this section, shall be held to include the name of the street and the number, if any, of the house on the street.

## CHAPTER 30.

## OF WORKHOUSES AND ALMSHOUSES.

SECTION 1. A city or town may erect or provide a workhouse or almshouse for the employment and support of indigent persons maintained by or receiving alms from it; of persons who, being able to work and not having estate or means otherwise to maintain themselves, refuse or neglect to work; of persons who live a dissolute, vagrant life and exercise no ordinary calling or lawful business; of persons who spend their time and property in public houses to the neglect of their proper business or who, by otherwise misspending their earnings, are likely to become chargeable to the city or town; and of other persons sent thereto under any provisions of law.\*

Workhouses  
or almshouses;  
commitments  
thereto.  
1743-4, 12,  
§§ 1, 8.  
1788, 30, §§ 7, 11.  
1828, 142, § 3.  
R. S. 16, §§ 1, 22;  
46, § 4.  
1852, 275.  
1857, 153.  
G. S. 22, §§ 1, 22.  
P. S. 33, §§ 1, 22.  
8 Allen, 73.  
127 Mass. 4.  
137 Mass. 175.  
151 Mass. 507.  
152 Mass. 503.

(Acts of 1904, Chap. 274.)

AN ACT RELATIVE TO THE CUSTODY OF PERSONS COMMITTED TO WORKHOUSES OR ALMSHOUSES FOR CRIMINAL OFFENCES.

SECTION 1. Persons committed to any workhouse or almshouse established under the provisions of section one of chapter thirty of the Revised Laws, for vagrancy, drunkenness or petit larceny, or as night walkers, rogues or vagabonds, or for any other offence against the laws of the Commonwealth, and persons received therein as tramps or vagrants without commitment, shall be confined in separate and distinct quarters in such workhouse or almshouse and shall not be permitted to associate or communicate with the pauper inmates thereof.

Persons com-  
mitted to  
almshouses,  
etc., for  
criminal  
offences to be  
confined in  
separate  
quarters, etc.  
1904, 274, § 1.  
1905, 348, § 1.

SECTION 2. Any officer or other person having authority in or over any workhouse or almshouse as aforesaid, who knowingly violates the provisions of this chapter,

Penalty.  
1904, 274, § 2.

\* Chapter 344 of the Acts of 1905 provides that: Cities and towns which provide lodging for tramps and vagrants shall require them, if physically able, to perform labor of some kind in return for the lodging and food furnished to them; and the places in which such persons are lodged shall be kept in such order and condition as may be prescribed by the state board of health.

shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than six months, or by both such fine and imprisonment.

## CHAPTER 35.

### STANDARD RECORD INK.

Prohibition.  
1884, 378.  
1898, 510.  
1899, 354, § 1.

SECTION 8. Persons having the care or custody of public records in any department or office of the commonwealth, or of any county, city or town, shall not, except as provided in the following section, use or permit to be used upon any public record written by them or under their direction any ink except ink furnished by the commissioner (of public records).

Certain appli-  
cances forbid-  
den.  
1899, 354, § 4.

SECTION 9. Such persons shall not use or permit to be used upon such records any ribbon, pad or other device used for printing by typewriting machines, or any ink contained in such ribbon, pad or device, except such as has been approved by the commissioner. If the commissioner finds that an article so approved is inferior to the standard established by him he shall cancel his approval.

Penalty.  
1898, 510.  
1899, 354, § 5.

SECTION 10. Whoever violates the provisions of the two preceding sections shall be punished by a fine of not more than fifty dollars.

## CHAPTER 35.

### RECORDS TO BE KEPT IN FIREPROOF VAULTS.

Fireproof  
vaults.  
1811, 165.  
R. S. 14, § 104.  
1851, 161, §§ 1, 2.  
1857, 97, § 1.  
G. S. 29, §§ 3, 4.  
P. S. 37, §§ 3, 4.  
1897, 439, § 10.

SECTION 18. Officers or boards in charge of a state department, county commissioners, city councils and selectmen shall, at the expense of the commonwealth, county, city or town, respectively, provide and maintain fireproof rooms, safes or vaults for the safe keeping of the public records of their department, county, city or town, other than the records in the custody of teachers of the public schools, and shall furnish such rooms only with fittings of non-combustible materials.

## CHAPTER 75.

## OF CONTAGIOUS DISEASES IN PRISONS.

SECTION 47. If a prisoner in a jail, house of correction or workhouse has a disease which, in the opinion of the physician of the board or of such other physician as it may consult, is dangerous to the safety and health of other prisoners or of the inhabitants of the town, the board shall, in writing, direct his removal to a hospital or other place of safety, there to be provided for and securely kept until its further order. If he recovers from the disease, he shall be returned to his former place of confinement. If the person so removed has been committed by order of court or under judicial process, the order for his removal, or a copy thereof attested by the presiding member of the board, shall be returned by him, with the doings thereon, into the office of the clerk of the court from which the process of commitment was issued. No prisoner so removed shall thereby commit an escape.

Removal of  
sick prisoners.  
1816, 44, §§ 10, 40.  
R. S. 21, §§ 25, 26.  
G. S. 26, §§ 25, 26.  
P. S. 80, §§ 49, 50.

SECTION 48. An inmate of a public charitable institution or a prisoner in a penal institution who is afflicted with syphilis shall be forthwith placed under medical treatment, and, if, in the opinion of the attending physician, it is necessary, he shall be isolated until danger of contagion has passed or the physician determines that his isolation is unnecessary. If, at the expiration of his sentence, he is afflicted with syphilis in its contagious or infectious symptoms, or if, in the opinion of the attending physician of the institution or of such physician as the authorities thereof may consult, his discharge would be dangerous to public health, he shall be placed under medical treatment and cared for as above provided in the institution where he has been confined until, in the opinion of the attending physician, such symptoms have disappeared and his discharge will not endanger the public health. The expense of his support, not exceeding three dollars and fifty cents a week, shall be paid by the

Treatment of  
syphilitics.  
1891, 420.

place in which he has a settlement, after notice of the expiration of his sentence and of his condition to the overseers of the poor thereof, or, if he is a state pauper, to the state board of charity.

## CHAPTER 75.

### VACCINATION OF PRISONERS.

Inmates of  
factories, etc.,  
to be vac-  
cinated.  
1855, 414, §§ 5, 6.  
G. S. 26, § 30.  
P. S. 80, § 54.  
1894, 515, § 5.  
1898, 433, § 23.

SECTION 138. The board of health of a city or town in which any incorporated manufacturing company, almshouse, reform or industrial school, hospital or other establishment where the poor or sick are received, prison, jail or house of correction or any institution which is supported or aided by the commonwealth is situated may, if it decides that it is necessary for the health of the inmates or for the public safety, require the authorities of said establishment or institution, at the expense thereof, to cause all said inmates to be vaccinated.

## CHAPTER 77.

### DISPOSITION OF DEAD BODIES.

Disposition of  
dead bodies.  
1830, 57, § 3.  
1884, 187, § 3.  
R. S. 22, § 10.  
1845, 242, § 1.  
1855, 323, § 1.  
G. S. 27, § 1.  
1879, 291, § 9.  
P. S. 81, § 1.  
1891, 185, § 1;  
406.  
1898, 479, § 1.  
1900, 333.

SECTION 1. Upon the written application of the dean or other officer of any medical school established by law in this commonwealth, the overseers of the poor of a city or town, the trustees for children, the pauper institutions trustees, the insane hospital trustees and the penal institutions commissioner, of the city of Boston, the trustees and superintendent of the state hospital, state farm or other public institution supported in whole or in part at the public expense, except the soldiers' home in Chelsea, shall give such dean or other officer permission to take, within three days after death, the bodies of such persons who die in such town, city, city institution, state hospital, state farm or public institution as are required to be buried at the public expense, to be used within the commonwealth for the advancement of anatomical science; but such permission shall not be given to take the body

of any soldier or sailor, known to be such, who served in the war of the rebellion or in the war between the United States and Spain. In giving such permission, regard shall be had to preserving as far as practicable a fair proportion between the number of students in attendance at such institutions and the number of such bodies delivered to them respectively.

SECTION 2. Such dean or other officer, before receiving any such dead body, shall give to the board or officer surrendering the same to him a sufficient bond with condition that such body shall be used only for the promotion of anatomical science within this commonwealth, and in such manner as in no event to outrage the public feeling, that, after having been so used, the remains shall be decently buried, that it shall not be so used for fourteen days after death and that it shall, during said fourteen days, be kept in a condition and place to be viewed by any person, at all reasonable times, for the purpose of identification.

SECTION 3. If the deceased person, during his last sickness, of his own accord requests to be buried or requests that his body be delivered up to any friend, or if, within fourteen days after the death of such deceased person, any person claiming to be and satisfying the authorities that he is a friend or is of kindred to the deceased asks to have the body buried or surrendered to himself, or if such deceased person was a stranger or traveller who suddenly died, the body shall not be given up as aforesaid; but shall, in conformity with such request, be either buried or delivered to such friend or kindred.

SECTION 4. Upon conviction of murder in the first degree, the court may order the body of the convict after his execution to be dissected. The *warden of the state prison* shall in such case deliver it to a professor of anatomy or surgery in a medical school established by law in this commonwealth, if so requested; otherwise, he shall, unless the convict's friends desire it for interment, de-

Bond.  
1880, 57, § 3.  
1884, 187, § 3.  
R. S. 22, § 12.  
G. S. 27, § 2.  
P. S. 81, § 2.  
1898, 479, § 2.

When bodies  
are to be  
buried.  
1880, 57, § 3.  
1884, 187, § 3.  
R. S. 22, § 11.  
1845, 242, § 2.  
G. S. 27, § 4.  
P. S. 81, § 4.  
1891, 185, § 2.  
1898, 479, § 3.

Dissection of  
body of  
murderer.  
1784, 9, § 4.  
1804, 125, § 1.  
R. S. 125, § 2.  
G. S. 160, § 8.  
P. S. 202, § 8.  
1904, 204.



liver it to any surgeon attending to receive it who will undertake to dissect it.

Autopsies in  
state insane  
hospitals and  
asylums.  
1902, 417.

SECTION 5. *Where the cause of death cannot otherwise be determined the chief medical officer of the institutions named in section one shall have power to cause autopsies to be made upon bodies unclaimed by relatives or friends, before surrendering the same to such persons and in such manner as are specified in sections one and two of this act.*

## CHAPTER 82.

### CUSTODY OF DEFENDANT IN BASTARDY CASES.

Surrender of  
principal to  
jailer, when.  
1878, 48.  
P. S. 85, § 11.  
3 Allen, 151.

SECTION 11. A surety upon a bond\* given under the provision of section six may, if the court in which the complaint is pending is not in session, surrender his principal to the keeper of any jail in the county in which the complaint is pending. The surety shall deliver to the jailer a copy of the bond, attested by the officer having custody thereof, which shall be a sufficient warrant to the jailer, although the surrender and commitment prove to be unlawful on the part of the surety. Such surrender shall have the same effect as a surrender under the provisions of section eight,† and like proceedings may be had thereafter.

Discharge of  
defendant on  
non-entry,  
how.  
1865, 161.  
P. S. 85, § 12.  
1885, 384, § 5.

SECTION 12. If the defendant is committed under the provisions of section nine‡ and the complaint is not entered at the return day of the superior court at which he was required to appear, he may make application to said court to be discharged; and if it appears, after such notice as the court may order, that there is no ground to hold him to answer further to the complaint, the court shall order him to be discharged. *If after entry the complainant neglects or refuses to prosecute such complaint, the district attorney, upon notification from a probation officer or from the keeper of the jail in which such de-*

Defendants in  
bastardy cases  
may be dis-  
charged in  
certain cases.  
1905, 545.

\* For appearance at continued hearing.

† Relative to surrender by surety to court.

‡ For appearance in superior court.

*fendant is confined that the proceedings have been unreasonably prolonged, shall bring the case to the attention of the superior court which, after such notice to the complainant and such investigation as it shall deem necessary, may order the defendant to be discharged.*

SECTION 14. If the defendant is committed on account of inability to give bond, he shall be discharged from imprisonment at any time thereafter upon giving the required bond, approved in the manner provided in section five.\*

Discharge after commitment, how.  
1856, 84, § 2.  
G. S. 72, § 6.  
P. S. 85, § 14.  
1898, 157.

SECTION 20. If the defendant has been imprisoned ninety days for a failure to comply with an order of the superior court, as provided in this chapter, he shall have the benefit of the laws for the relief of poor debtors committed on execution if he causes the notice required by the provisions of section thirty-three of chapter one hundred and sixty-eight to be served upon the clerk of the city or town in which the child of which he is the reputed father has its legal settlement, if there is such place in the commonwealth, and upon the parties to the record, thirty days at least before the time appointed for taking the oath.

Defendant may take poor debtor's oath.  
1825, 173.  
R. S. 49, § 5.  
G. S. 72, § 11.  
P. S. 85, § 20.  
3 Allen, 151.  
153 Mass. 428.

SECTION 23. The complainant shall not be required to pay or give security for the support of the defendant if he is committed to prison by virtue of the provisions of this chapter; nor shall the defendant be discharged from imprisonment although payment is not made or security given for his support.

Complainant not to support defendant in prison.  
1852, 187.  
G. S. 72, § 14.  
P. S. 85, § 23.

## CHAPTER 85.

### TRUSTEES OF THE STATE HOSPITAL AND THE STATE FARM.

SECTION 1. There shall be a board of trustees of the state hospital and state farm, consisting of five men and two women, three of whom shall annually in June be

Trustees of state hospital and state farm.  
1852, 275, § 6.  
1854, 437, § 3.  
1859, 177, § 3.

\* Bond approved by a justice, special justice or clerk of a police, district or municipal court, by a trial justice or by a bail commissioner or master in chancery.

G. S. 71, § 32.  
1879, 291, § 9.  
P. S. 86, § 13;  
88, § 1.  
1884, 297, § 2.  
1887, 264.  
1900, 333.

Meetings,  
reports.  
1862, 275, §§ 5,  
6, 10.  
1854, 189, § 1.  
1857, 40, § 1.  
1859, 177, § 2.  
1864, 288, § 11.  
G. S. 71, §§ 32,  
34, 54.  
1866, 198, § 2.  
1872, 45, § 4.  
1876, 199, §§ 1-3.  
1879, 291, §§ 7,  
9, 10.  
P. S. 86, §§ 13,  
14, 16, 17, 19, 20,  
40; 88, §§ 2, 3.  
1883, 278.  
1884, 297, §§ 2, 3.  
1891, 299.

Rules, etc.  
1862, 275, § 6.  
1866, 198, § 2.  
G. S. 71, § 32.  
1879, 291, §§ 7, 9.  
P. S. 86, § 14.  
1884, 297, § 2.  
P. S. 88, § 1.

appointed by the governor, with the advice and consent of the council, for a term of three years, except that in the year nineteen hundred and three and every third year thereafter only one such trustee shall be so appointed.

SECTION 2. The trustees shall hold meetings monthly either at the state hospital or state farm and shall annually, on or before the first day of November, report to the governor and council the condition of such institutions and the expenses of the state hospital in detail for the year ending on the preceding thirtieth day of September,\* a list of the salaried officers and their salaries, and a copy of the inventory required by the provisions of section seven of chapter eighty-four.† One trustee shall visit each institution at least once in each week. The trustees shall appoint a superintendent of the state hospital, who, with the approval of the governor and council, may be the resident physician, and a superintendent of the state farm, each of whom shall hold office at the pleasure of the board and whose compensation shall be fixed by it with the approval of the governor and council. All other officers and employees shall be appointed by the superintendents, subject to the approval of the trustees, who shall fix the compensation in each case, which shall not exceed the appropriation of the general court for that purpose. They shall audit and approve the accounts and bills of the superintendent of the state hospital and of the state farm before payment. No person employed by the board shall be a member thereof.

SECTION 3. The trustees shall, with the approval of the governor and council, establish rules and regulations for the proper management and government of the state hospital and state farm, and shall see that they are enforced.

\* See footnote on page 8.

† The inventory includes: Live stock, produce of the farm, carriages and agricultural implements, machinery and mechanical fixtures, beds, bedding and other furniture, personal property, ready-made clothing, dry goods, provisions and groceries, drugs and medicines, fuel, library.

## CHAPTER 85.

## THE STATE FARM.

SECTION 28. The superintendent shall have the management and control of the state farm and its operations.

Duties of superintendent.  
1866, 198, §§ 2, 4.  
P. S. 88, § 2.

SECTION 29. The state board of charity shall have general supervision of the state farm, and shall have the same power to discharge persons confined therein for any cause, or to apprentice or discharge any person committed under the provisions of the following section, as county commissioners have over inmates of houses of correction. It shall also have all the powers, not herein given to the superintendent and trustees, which overseers of the poor have relative to town workhouses.

Duties of state board of charity.  
1866, 198, § 3.  
1869, 258, § 2.  
1877, 147.  
1879, 291, § 3.  
P. S. 88, §§ 4, 6.  
1886, 101, § 4.  
1898, 433, § 24.

SECTION 30. Upon complaint of one of the overseers of the poor of a city or town, or in Boston of the pauper institutions trustees, police, district and municipal courts and trial justices may in their discretion commit persons who have been convicted of any of the offences enumerated in sections forty-six and fifty-five of chapter two hundred and twelve to the state farm.\*

Vagabonds may be committed.  
1866, 198, § 5.  
1869, 258, § 1.  
1870, 19; 288, § 1.  
P. S. 88, § 5.  
1897, 395, § 4.  
1898, 443, § 1.

SECTION 31. The state board of charity may cause any person committed under the provisions of the pre-

State board may deport or discharge such persons.

\* The provisions of sections 46 and 55 of chapter 212 are as follows:—

SECTION 46. Rogues and vagabonds, persons who use any juggling or unlawful games or plays, common pipers and fiddlers, stubborn children, runaways, common drunkards, common night walkers both male and female, pilferers, lewd, wanton and lascivious persons in speech or behavior, common railers and brawlers, persons who neglect their calling or employment, mispend what they earn and do not provide for themselves or for the support of their families, and all other idle and disorderly persons, including therein those persons who neglect all lawful business and habitually mispend their time by frequenting houses of ill fame, gaming houses or tippling shops, may be punished by imprisonment in the Massachusetts reformatory or at the state farm or for not more than six months in the house of correction or workhouse. . . . A female offender under the provisions of this section may . . . be punished by imprisonment in the reformatory prison for women. . . .

SECTION 55. If it is alleged in a complaint charging a person with being a common night walker, and is proved at the trial that such person has been twice before convicted of the same offence, such person may, upon conviction, be sentenced to the house of correction, or to the workhouse, if any, in the city or town, for not more than five years.

1869, 258, § 2.  
1877, 147.  
P. S. 88, § 6.  
1898, 443, § 1.

ceding section, who has no legal settlement in this commonwealth, to be removed to the state or place where he belongs, or whence he came, in accordance with law. A person so removed who returns to this commonwealth before the expiration of his sentence may be re-arrested and returned to the state farm, there to serve out the remainder of his sentence.

Support to be  
paid by place  
of settlement,  
when.  
1869, 258, § 3.  
P. S. 88, § 7.

SECTION 32. If any person so committed has a legal settlement in a city or town in this commonwealth, such city or town shall pay for his support such amount per week as, having regard for his capacity for labor, may be fixed upon by the state board of charity; but upon written request of the overseers of the poor, the state board shall permit him to be transferred to the workhouse of his place of settlement, there to serve out the remainder of his sentence.

Penalty for  
escape.  
1866, 198, § 5.  
1870, 288, § 3.  
1880, 257, § 8.  
P. S. 88, § 8.  
1903, 188.

SECTION 33. Whoever being sentenced to the state farm escapes or attempts to escape therefrom, or from the custody of the officer while being conveyed to said farm, may be pursued and reclaimed; and shall be punished by *an additional sentence to said farm.*

—of inmates  
not sentenced.  
1884, 258, § 1.  
1898, 443, § 1.

SECTION 34. Whoever, not being a sentenced inmate of the state farm, absconds or escapes therefrom and within one year thereafter is found within any city or town soliciting public charity shall be punished by imprisonment at the state farm.

Sentences to  
state farm.  
1898, 443, § 1.

SECTION 37. In imposing a sentence of imprisonment at the state farm, the court or trial justice shall not fix or limit the duration thereof. Whoever is sentenced to the state farm for drunkenness may be there held in custody for not more than one year, and whoever is so sentenced for any other offence may be there held in custody for not more than two years, except as provided in section thirty-three.

Release on  
probation.  
1862, 189.  
1880, 221, § 3.  
P. S. 220, § 68.  
1898, 443, § 2.

SECTION 38. If it appears to the state board of charity that a person serving a sentence at the state farm has reformed, it may, upon such conditions as it may deter-

mine, issue to him a permit to be at liberty for the residue of the period for which he might be held, and may revoke it at any time previous to its expiration.

SECTION 39. Upon the revocation of such permit, said board may issue an order for the return of the holder thereof to the state farm, which may be served by any officer authorized to serve criminal process. Upon his return to the state farm, the holder of such permit shall be detained for the residue of the term for which he might be held under the provisions of section thirty-seven and the time between his release on permit and said return shall not be considered as any part of said term; *or, if subsequent to such return it shall be deemed advisable by said board, the board may issue to such person further permits to be at liberty under the provisions of section thirty-eight, and subject to revocation as therein provided.*

The state board of charity may order return of prisoners on permits or issue further permits to be at liberty.  
1884, 162, § 2.  
1898, 443, § 3.  
1904, 216.

SECTION 40. The governor, upon the written recommendation of the state board of charity, may from time to time appoint two or more agents of said board as special district police officers, who shall serve without pay, for terms of three years each unless sooner removed and who shall have authority to return prisoners to the state farm, under the provisions of the preceding section.

Special district police officers.  
1901, 185.

## CHAPTER 85.

### STATE ASYLUM FOR INSANE CRIMINALS.

SECTION 41. The state asylum for insane criminals shall be a part of the state farm, and the superintendent of the state farm, with the approval of the trustees, shall appoint a physician as medical director of said asylum and shall fix his salary. The director shall have the care and custody of the inmates thereof, and govern them in accordance with regulations approved by the trustees.

Asylum for insane criminals.  
1886, 219, § 1.  
1895, 390, §§ 1, 2.

SECTION 42. The state board of insanity may transfer to and from the state insane hospitals and the asylum for insane criminals any of the insane male persons mentioned in section sixteen of chapter two hundred and

Transfers.  
1895, 390, § 5.  
1898, 433, § 28.  
[1 Op. A. G.  
322, 528.]

eighteen, sections twelve, fifteen and sixteen of chapter two hundred and nineteen and sections one hundred and one to one hundred and three, inclusive, of chapter two hundred and twenty-five if such transfer will insure a better classification of insane criminals.\*

Commitments.  
1894, 251, § 1.  
1895, 390, § 6.  
1898, 433, § 28.

SECTION 43. The state board of insanity may transfer and commit to the asylum for insane criminals any inmate of a state insane hospital, of the Worcester insane asylum or of the state farm, committed to said in-

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\* The sections relative to insane criminals committed by courts are as follows:—

Chapter 218, section 16. If the grand jury does not indict a person who is held in custody on a charge of crime by reason of his insanity, they shall so certify to the court, which, if satisfied that he is insane, may order him to be committed to a state insane hospital, under such limitations as it may order; or, if the court finds that he has been a criminal or has been vicious in his life, it may order him to be committed to the asylum for insane criminals, and if he is charged with felony, his expenses there or in a state insane hospital or in any state charitable institution to which he may be transferred shall be paid by the commonwealth.

Acts of 1904, chapter 257, section 1. Chapter two hundred and nineteen of the Revised Laws is hereby amended by striking out sections eleven and twelve and inserting in place thereof the following:— *Section 11. If a person under indictment for any crime is at the time appointed for trial, or at any time prior thereto, found by the court to be insane, or is found by two experts in insanity designated by the court to be in such mental condition that his committal to an insane hospital is necessary for the proper care or for the proper observation of such person, pending the determination of his insanity, the court may cause him to be committed to a state insane hospital for such time and under such limitations as the court may order.*

Chapter 219, section 15. If a person is acquitted by the jury by reason of insanity, the jury shall state that fact to the court, which, if satisfied that he is insane, may order him to be committed to a state insane hospital under such limitations as may seem proper.

Chapter 219, section 16. If a person who is indicted for murder or manslaughter is acquitted by the jury by reason of insanity, the court shall order him to be committed to a state insane hospital during his natural life, and he may be discharged therefrom by the governor, with the advice and consent of the council, when he is satisfied, after a hearing, that such person may be discharged without danger to others.

Chapter 219, section 17. An insane male prisoner who is described in sections eleven, twelve, fifteen and sixteen may be committed or removed to the state asylum for insane criminals instead of to a state insane hospital if, in the opinion of the court, he has been a criminal or has been vicious in his life, and if he has been held on a charge of felony, the expense of his support in a state insane hospital or in the asylum for insane criminals or in any state charitable institution to which he may be transferred shall be paid by the commonwealth.

stitutions from the state prison, the Massachusetts reformatory, the jails and houses of correction of the several counties.

SECTION 44. If in the judgment of the trustees and the superintendent of the state farm any person committed under the provisions of the preceding section ought to be returned to the institution to which he was originally committed, a statement thereof shall be certified upon the mittimus or warrant of commitment and notice shall be given to the master, warden or superintendent of such institution, who shall thereupon cause said person to be reconveyed to said institution there to remain pursuant to the original sentence computing the time of his detention in the asylum for insane criminals as part of the term of his imprisonment.

Return of  
inmates.  
1894, 251, § 2.  
1895, 390, § 6.

## CHAPTER 87.

SECTION 106. There shall be in each county within the precincts of the house of correction, or if in the opinion of the county commissioners it cannot be conveniently provided therein, then in some other building or buildings, which shall be deemed a part of the house of correction, a convenient apartment or receptacle for the confinement of insane persons who are not furiously mad.\*

County recep-  
tacles, etc., for  
insane  
persons.  
1836, 223, § 1.  
1842, 100.  
G. S. 74, § 1.  
P. S. 87, § 40.

SECTION 107. An insane person who is confined by legal authority in a jail, house of correction or such county receptacle may, by order of the governor, be removed therefrom to any of the state insane hospitals, or to any other jail, house of correction or other suitable place, if it appears to him that such removal would be expedient and just; and the sheriff of the county in which such person is confined shall execute such order and convey the insane person to the place therein designated.

Removal of in-  
sane persons  
confined in  
jails.  
1838, 73, § 3.  
1854, 95.  
G. S. 74, § 7.  
1880, 250, § 6.  
P. S. 87, § 50.

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\* This provision is obsolete. The last county receptacle for the insane was closed in 1887.



Jailers, etc.,  
not to contract  
for support  
of insane  
paupers.  
1882, 163, § 7.  
1884, 150, § 8.  
R. S. 48, § 12.  
G. S. 74, § 10.  
P. S. 87, § 52.

SECTION 108. The keeper of a jail, house of correction or county receptacle shall not contract for supporting within the county buildings any insane town pauper, without first obtaining the approval in writing of the county commissioners. Whoever violates the provisions of this section shall forfeit not less than one hundred dollars.

#### CHAPTER 108.

##### LIST OF POLICE OFFICERS, ETC.

List of police  
to prison com-  
missioners.  
1892, 290.

SECTION 38. The clerk of each city or town in which a chief of police or city marshal is appointed, shall, within one week after such appointment, notify the prison commissioners of the name of the person so appointed; and the clerk of each town not having a chief of police shall annually, on the first day of October, send to the prison commissioners the names of all the police officers and constables in such town. If he neglects or refuses so to do, he shall be liable to a penalty of fifty dollars.

#### CHAPTER 163.

##### DISCHARGE OF INSOLVENT DEBTOR.

Examination  
of debtor if in  
prison.  
1888, 163, § 9.  
G. S. 118, § 67.  
P. S. 157, § 71.

SECTION 83. If the debtor is in jail on an action or proceeding for or on account of a debt or claim provable against his estate, at any time before the granting of his certificate and if his attendance is required before the court or the assignee, or at a meeting of his creditors, the judge may, by a writ, require the jailer to produce the debtor for said purposes, at a time and place specified in the writ.

— if ill or un-  
able to attend.  
1888, 163, § 9.  
G. S. 118, § 68.  
P. S. 157, § 72.

SECTION 84. If the debtor, by reason of imprisonment, illness, or other sufficient cause, is unable to attend before the court or the assignee or at a meeting of his creditors, the court or a person appointed by it and the assignee, or a person appointed by him, shall conduct the examination of the debtor in jail or elsewhere, if he is within this commonwealth.

SECTION 94. If the debtor at the time of obtaining his certificate is in jail on an action or proceeding for or on account of a claim provable against his estate, he shall be discharged from such imprisonment, upon producing to the jailer his certificate granted under the provisions of this chapter.

Discharge from imprisonment.  
1888, 163, § 9.  
G. S. 118, § 77.  
P. S. 157, § 82.  
180 Mass. 415.

## CHAPTER 168.

### DISCHARGE FROM ARREST.

SECTION 29. When arrested on mesne process, the defendant shall be allowed a reasonable time to procure bail, and when arrested on such process, or on execution, he shall be allowed reasonable time to procure sureties for his recognizance hereinafter mentioned. . When arrested on mesne process, if he does not give bail, and when arrested on execution in any case, he shall be taken before a police, district or municipal court, or a trial justice, or if he wishes to recognize, he may be taken before a master in chancery. If the arrest is made when the court is not sitting and the defendant or debtor does not desire to give bail or to recognize, the officer making the arrest may deliver the defendant or debtor to the keeper of the jail, to be detained in said jail until the next sitting of the court for the transaction of business, when he shall be delivered to said officer to be taken before the court. The officer making the arrest shall pay in advance to the keeper of the jail, for the support of the defendant or debtor, twenty-five cents for each days' detention, which shall be charged with the expenses of serving the writ or execution.

Time allowed to procure bail, etc.  
1787, 29, §§ 1, 2.  
R. S. 98, §§ 1, 4.  
1853, 413.  
1855, 444, § 12.  
1857, 141, §§ 4, 18; 258.  
G. S. 124, § 9.  
1873, 352, § 3.  
P. S. 162, § 27.  
1888, 412, § 6.  
1889, 415, §§ 5, 6.  
7 Gray, 581.  
100 Mass. 300.  
157 Mass. 374.  
174 Mass. 307.

SECTION 39. If the defendant or debtor desires to take an oath and to have a time fixed for his examination, but does not recognize to the satisfaction of the magistrate as provided in the preceding section,\* the magistrate

Defendant not recognizing may be imprisoned.  
1889, 415, § 4.

\* Section 38 provides for a recognizance with surety or sureties in a sum not less than the amount of the execution.

may make a certificate thereof, which shall be attached to the writ or execution, and the defendant or debtor shall be committed to jail until the next sitting of the court for the transaction of business or until the time fixed for his examination, when he shall be delivered by the jailer to the officer who makes the arrest, to be by him taken before the magistrate.

## CHAPTER 168.

### SUPPORT OF POOR DEBTOR.

Support in jail.  
C. L. 6, § 3;  
128, § 2.  
1706-7, 2.  
1819, 94, § 3.  
1821, 22, §§ 1, 2.  
R. S. 90, §§ 113,  
114; 97, §§ 48-  
53.  
1857, 141, § 25.  
G. S. 124, § 27.  
P. S. 162, § 45.  
16 Gray, 166.  
168 Mass. 375.

SECTION 49. If the defendant or debtor confined in jail on mesne process or execution in a civil action claims support as a pauper, the jailer shall furnish his support at the rate of one dollar and seventy-five cents a week, to be paid by the plaintiff or creditor, who in such case shall, if required by the jailer, either from time to time advance the money necessary for the support of the prisoner or give the jailer satisfactory security therefor. If the plaintiff or creditor neglects so to do for twenty-four hours after demand, the jailer shall discharge the prisoner. Such demand may be made of the officer who made the commitment or of the plaintiff or creditor or his attorney at any time after the prisoner has claimed such support.

Property liable  
for support.  
R. S. 97, § 60.  
G. S. 124, § 30.  
P. S. 162, § 48.

SECTION 51. If the debtor undertakes to satisfy the execution, he shall not be entitled to be discharged until he has paid all charges for his support in jail, both upon the arrest on the original writ and upon the commitment on execution, in addition to the amount due on the execution and the costs and charges thereon.

## CHAPTER 168.

### DISCHARGE OF DEBTORS OF THE COMMONWEALTH.

Discharge of  
debtors of  
common-  
wealth.  
1855, 276, §§ 1, 2.  
G. S. 124, § 35.  
P. S. 162, § 53.

SECTION 56. If a debtor committed to prison on a warrant of distress in favor of the commonwealth is unable to pay the debt for which he is imprisoned, he shall be entitled to his discharge in like manner as poor debtors

arrested on execution; and all the proceedings shall conform as nearly as may be to the provisions of law relative to such debtors, except as hereinafter provided.

SECTION 57. If he represents to the jailer that he desires to take the oath for the relief of poor debtors, the jailer shall make the same known to a police, district or municipal court, or a trial justice. The magistrate shall thereupon appoint a time and place for the examination of the debtor, and shall notify the district attorney for the district by a notice, which shall be served on him personally by an attested copy thereof or by leaving the same at his usual place of abode, thirty days at least before the time appointed for the examination.

Same subject.  
1855, 276, §§ 2, 3.  
G. S. 124, § 36.  
P. S. 162, § 54.  
1888, 419, § 10.  
7 Cush. 536.

## CHAPTER 168.

### JUDGMENT DEBTORS IMPRISONED OR ON BAIL.

SECTION 60. A person imprisoned in a civil action when final judgment in such action is rendered against him shall be discharged, upon giving to the creditor a bond with sufficient surety or sureties to be approved by a magistrate named in section one\* in a sum not less than double the amount of the judgment and conditioned that he shall surrender himself at the same jail to the jailer, between the hours of eight and ten o'clock of the forenoon of the thirtieth day next after the rendition of said judgment, or if said day falls on Sunday, on the next following day, which day shall be specified in the bond, and there remain until five o'clock of the afternoon of the same day, so that he may be taken on the execution on said judgment.

Discharge  
upon final  
judgment.  
1837, 198, § 1.  
G. S. 124, § 40.  
P. S. 162, § 58.

SECTION 61. If an execution on such judgment amounting to twenty dollars exclusive of costs, and upon which so much as that amount remains uncollected, is delivered to an officer qualified to serve it, with the affidavit required for the arrest of a debtor on execution, such officer

Proceedings  
when execu-  
tion issues.  
1837, 198, § 3.  
1837, 141, § 3.  
G. S. 124, § 41.  
P. S. 162, § 59.

\* A justice of a police, district or municipal court, a master in chancery, a trial justice, or, except in the county of Suffolk, a justice of the peace.

may, within thirty days after the rendition of the judgment on which such execution is issued, leave it or a copy thereof with the jailer; and the debtor shall, upon the surrender of himself as provided in said bond, be committed upon the execution in like manner as if he had been taken and committed thereon by the officer to whom it was delivered. The officer shall make return in like manner and be entitled to the same fees as if the execution had been served in the common form.

Same subject.  
1837, 198, §§ 3, 4.  
G. S. 124, § 42.  
P. S. 162, § 60.

SECTION 62. The jailer shall, immediately after the expiration of said thirty days, certify upon the execution or copy so left with him the fact that such debtor has or has not surrendered himself, and shall give a similar certificate to the officer, upon request, which shall be annexed to his return on the execution; and such certificate shall be sufficient authority to the officer to make his return accordingly. Such return, with the certificate annexed thereto, shall be prima facie evidence of the fact on the question of breach of condition of the bond and in other cases. A jailer who gives a false certificate, shall be liable in damages to any person injured thereby.

Bond by person surrendered by bail after final judgment.  
1837, 198, § 5.  
G. S. 124, § 43.  
P. S. 162, § 61.

SECTION 63. If a person who has given bail on mesne process in a civil action is surrendered by his bail after final judgment in such action, he shall be released upon giving to the creditor a bond as provided in section sixty, except that the condition thereof shall be for his surrender at the same jail on the thirtieth day next after the surrender by his bail. The day on which the same will fall, and, if there is more than one jail in the same county, the jail at which the surrender is to be made, shall be specified in the condition of the bond. All the other provisions relative to the bond which are mentioned in section sixty shall apply to such bond.

Debtor may be committed within thirty days after judgment.  
1837, 198, § 6.  
G. S. 124, § 44.  
P. S. 162, § 62.

SECTION 64. The provisions of the four preceding sections shall not prevent an officer from taking the debtor and committing him to jail on such execution within thirty days after the rendition of judgment or surrender

by the bail as he might have done if such bond had not been given; and such commitment of the debtor shall be equivalent to his surrender according to the condition of his bond, and shall discharge it.

SECTION 67. If a prisoner who has been arrested or committed on execution in a civil action escapes with the consent or by the negligence of the officer, the creditor may in an action of tort against the officer recover such damages as he has suffered by the escape, and may also have against the original debtor a scire facias or an action on the judgment.

B remedy for an escape.  
1833, 134.  
R. S. 97, §§ 71, 72.  
G. S. 124, § 47.  
P. S. 162, § 66.  
3 Gray, 214.  
10 Gray, 365.  
4 Allen, 74.  
6 Allen, 260.

SECTION 77. The fees of the jailer under the provisions of sections sixty-one and sixty-two, shall be as follows: on a surrender of a debtor, fifty cents; and for a certificate thereof or of the non-surrender of the debtor, twenty-five cents, which shall be paid by the officer, and charged with the expenses of serving the execution. In other cases where a certificate is required, the jailer shall be entitled to a fee of twenty-five cents, which shall be paid by the party requiring the same.

Fees of jailer.  
1837, 198, § 4.  
G. S. 124, § 50.  
P. S. 162, § 69.

## CHAPTER 169.

### CUSTODY OF PERSON SURRENDERED BY BAIL.

SECTION 14. The jailer shall not be obliged to receive a person so surrendered, unless the bail delivers to him a copy of the bail bond attested by the officer who took it or by the clerk in whose custody it may be, which shall be a sufficient warrant for the jailer.

Proceedings.  
R. S. 91, § 14.  
G. S. 124, § 16.  
P. S. 163, § 16.

## CHAPTER 169.

### SUPPORT OF PRINCIPAL.

SECTION 23. If a principal, surrendered by his bail and committed to jail, claims support as a pauper, the jailer may require the plaintiff or his attorney in the action to give security or to advance the money for the support of the defendant in like manner as if the commitment had been made by an officer. If the plaintiff

Liability of plaintiff.  
1824, 124.  
R. S. 97, § 54.  
G. S. 125, § 28.  
P. S. 163, § 28.

fails so to do for twenty-four hours after being so required, the jailer may discharge the defendant.

Liability  
of bail.  
1824, 124.  
R. S. 97, § 55.  
G. S. 125, § 29.  
P. S. 163, § 29.

SECTION 24. The jailer may, at the time of the surrender, demand of the bail the advance of money for the support of the principal, or security therefor, instead of demanding the same of the plaintiff; and if the bail, for twenty-four hours after such demand, fail to give such security or to advance the money for the support of the principal, the jailer may discharge him; and the bail and the principal shall thereupon continue liable to the plaintiff in all respects as if the surrender had not been made.

— after sur-  
render.  
1824, 124.  
R. S. 97, §§ 56,  
57.  
G. S. 125, §§ 30,  
31.  
P. S. 163, §§ 30,  
31.

SECTION 25. If such demand is made upon the bail, they shall be liable for the support of the principal for seven days after they have given notice of the surrender to the plaintiff or to his attorney in the action. The plaintiff shall be liable for the support of the defendant after the expiration of said seven days; and if he fails to advance the money or to give security therefor as before provided, at or before the expiration of said time, the jailer may discharge the defendant.

## CHAPTER 176.

### PRISON OFFICERS EXEMPT FROM JURY DUTY.

Qualifications  
and exemp-  
tions.  
C. L. 55, § 2;  
148, § 4; 352.  
1784, 7, §§ 2, 9.  
1785, 45, § 4.  
1802, 92, § 1.  
1807, 140, § 1.  
1808, 25.  
G. S. 132, §§ 1, 2.  
P. S. 170, §§ 1, 2.

SECTION 1. A person qualified to vote for representatives to the general court shall be liable to serve as a juror, except that the following persons shall be exempt: . . . superintendents, officers and assistants employed in or about a state hospital, insane hospital, jail, house of correction, state industrial school or state prison; . . .

## CHAPTER 191.

### AS TO WRIT OF HABEAS CORPUS.

Advances  
prior to ser-  
vice of writ.  
1784, 72, § 3.  
R. S. 111, § 12.  
G. S. 144, § 10.  
P. S. 185, § 10.

SECTION 9. If the person restrained is confined in jail or is in the custody of a civil officer, the court or magistrate granting the writ shall certify thereon the amount to be paid for the expense of transporting him from the place of imprisonment, and the officer shall not

be bound to obey the writ unless that amount is paid or tendered to him.

SECTION 10. Any person to whom the writ is directed shall receive it, and, upon payment or tender of the charges demandable for the execution of it, shall make due return thereof within five days after receiving it.

Return of writ.  
1784, 72, § 3.  
R. S. 111, § 13.  
G. S. 144, § 11.  
P. S. 185, § 11.

SECTION 11. The person in whose custody the prisoner is found shall state in writing, plainly and unequivocally, to the court or justice before whom the writ is returnable:—

Contents of return.  
R. S. 111, §§ 14, 15.  
G. S. 144, §§ 12, 13.  
P. S. 185, §§ 12, 13.

First, Whether the prisoner is in his custody or power or under his restraint.

Second, If the prisoner is in his custody or power or under his restraint, his specific authority for and the true and whole cause of such imprisonment or restraint, with a copy of the writ, warrant or other process, if any, upon which the prisoner is detained.

Third, If the prisoner has been in his custody or power or under his restraint, and has been transferred to that of another, particularly to whom, when, why and by what authority such transfer was made.

The statement shall be signed by him and, unless he is a sworn public officer and makes the statement in his official capacity, shall be sworn to by him.

SECTION 26. An officer who refuses or neglects for six hours to deliver a true copy of the warrant or process by which he detains a prisoner to any person who demands such copy and tenders the fees therefor shall forfeit two hundred dollars to such prisoner.

Penalty on officer refusing copy of warrant.  
1784, 72, § 6.  
R. S. 111, § 27.  
G. S. 144, § 33.  
P. S. 185, § 30.

SECTION 30. Whoever refuses or neglects to receive and execute a writ of habeas corpus shall forfeit four hundred dollars to the party aggrieved thereby.

— for refusing to obey writ.  
1784, 72, § 7.  
R. S. 111, § 31.  
G. S. 144, § 37.  
P. S. 185, § 34.

## CHAPTER 191.

### PERSONAL LIBERTY.

SECTION 48. No person shall be deprived of his liberty or held in custody by any person or in any place

Personal liberty, how secured.  
1894, 536, § 1.



against his will or, if he is a minor, against the will of his parents, guardian or other person entitled to his custody, except by due process of law; but the provisions of this section shall not apply to persons who have been legally convicted of crime and are serving sentence therefor.

## CHAPTER 204.

### FEES OF SALARIED OFFICIALS.

Salaried officers not to be paid fees, except, etc.  
1862, 216, §§ 10, 15.  
1876, 215; 227, § 4.  
P. S. 109, §§ 34, 35.  
1889, 469.  
1890, 440, §§ 1, 9, 12.  
1891, 325, § 1.  
[1 Op. A. G. 594, 608.]

SECTION 42. No officer in attendance on any court, sheriff, deputy sheriff, jailer, constable, city marshal or other police officer who receives a salary or an allowance by the day or hour from the commonwealth or from a county, city or town shall, except as otherwise hereinafter provided, be paid any fee or extra compensation for official services performed by him in any criminal case; or for aid rendered to another officer; or for testifying as a witness in a criminal case during the time for which he receives such salary or allowance; or for services or as a witness at an autopsy or inquest; or in proceedings for commitment of insane persons; but his expenses, necessarily and actually incurred, and actually disbursed by him in a criminal case tried in the superior court, shall be paid by the county in which the trial is held, and in a criminal case tried in a police, district or municipal court or before a trial justice, by the city or town in which the crime was committed. Whoever receives extra compensation or a witness fee in violation of the provisions of this section shall be punished by a fine of not more than one hundred dollars.

Fees and expenses of certain officers.  
1890, 440, § 6.

SECTION 44. Any officer named in section forty-two who attends as a witness at a place other than his residence, shall, instead of his expenses, be allowed by the day the witness fee in the court or before the trial justice where he testifies. . . .

Compensation of officers for attending superior court in criminal cases.  
1890, 440, § 7.

SECTION 45. A deputy sheriff or other officer attending the superior court for criminal business, who serves any subpoena or capias between the daily sessions of said

court, may receive such extra compensation as the district attorney may allow. The officers shall make return, under oath, of the time actually occupied and of all expenses actually incurred and paid in performing such extra service.

SECTION 48. If it appears on oath that a salaried officer of the commonwealth has attended court as a witness in behalf of the commonwealth, at a place other than his residence, and that his necessary expenses have been increased by such attendance, the court or trial justice may allow such increased necessary expenses, not exceeding one dollar and fifty cents a day in all, for such actual and necessary attendance.

Officers may be allowed expenses. 1870, 326, § 2. P. S. 196, § 37.

## CHAPTER 208.

### TRESPASS UPON PRISON PREMISES.

SECTION 112. Whoever wilfully trespasses upon land which belongs to the commonwealth and is appurtenant to the state prison, Massachusetts reformatory, reformatory prison for women, *state hospital, state farm, Massachusetts hospital for epileptics, Foxborough state hospital, or any public institution for the care of insane, feeble-minded or epileptic persons*, or upon land which belongs to any county and is appurtenant to a jail or house of correction, or, after notice from an officer of any of said institutions to leave said land, remains thereon, shall be punished by imprisonment for not more than three months or by a fine of not more than fifty dollars.

Penalty for trespassing upon land of certain institutions. 1885, 308. 1906, 434.

## CHAPTER 208.

### INJURY OF PROPERTY BY PRISONERS.

SECTION 119. If a convict in the state prison wilfully and maliciously destroys or injures the property of the commonwealth at such prison or the property of any person who furnishes materials for the employment of the prisoners, he may be punished by imprisonment in the state prison for not more than three years; or if he is

Injury of property at state prison. 1891, 295. 1896, 344.

serving a sentence of imprisonment for life, he may be punished by imprisonment at solitary labor for not more than one year or by solitary imprisonment for not more than five days, or by both, and such punishment shall be inflicted at such time as the court orders.

Penalty for  
injury of  
property at  
prisons.  
1886, §44.  
1905, 241.

SECTION 120. *If a prisoner at the Massachusetts reformatory, the reformatory prison for women, the state farm, the temporary industrial camp for prisoners, or any jail or house of correction, wilfully and maliciously injures or destroys any public property or any materials furnished for the employment of prisoners in any of said institutions, he may be punished by imprisonment for not less than six months nor more than three years.*

## CHAPTER 210.

### TAKING COMMISSION BY PUBLIC OFFICER, ETC.

Taking com-  
mission, etc.,  
by public  
officer.  
1862, 101, §§ 1, 2.  
P. S. 205, § 11.  
1883, 271, § 1.

SECTION 8. An officer or agent of, or a person employed by, the commonwealth, or by a county, city, town or by any public institution not mentioned in section eleven who, being authorized to procure materials, supplies or other articles either by purchase or contract, or to employ service or labor, receives, directly or indirectly, for himself or for another, a commission, discount, bonus, present or reward from the person who makes such contract, furnishes such materials, supplies or other articles, or from a person who renders service or labor under such contract, or a person who gives or offers such commission, discount, bonus, present or reward, shall be punished by a fine of not less than ten nor more than five hundred dollars or by such fine and imprisonment for not more than one year.

— by member  
of legislature,  
city council,  
etc.  
1872, 274.  
1875, 232.  
P. S. 205, § 12.  
[1 Op. A. G.  
502.]

SECTION 9. A member of the general court, or of the executive council, or of a state commission, who is personally interested, directly or indirectly, in a contract made by the general court or by either branch thereof or by such commission or by its authority, in which the commonwealth is an interested party; or a person who alone

or with others represents the commonwealth in making such contract who is so interested; or such member or person who receives a commission, discount, bonus, present or reward from a person or persons making or performing such contract; or a member of either branch of a city council or of a municipal board of a city who is personally interested, directly or indirectly, in a contract made by the city council or by either branch thereof or by such board or by authority derived therefrom, in which the city is an interested party; or a person who alone or with others represents a city in making such contract who is so interested; or such member or person who, directly or indirectly, for himself or for another receives a commission, discount, bonus, present or reward from any person or persons making or performing such contract, shall be punished by a fine of not less than fifty nor more than one thousand dollars, or by such fine and by imprisonment for not more than one year.

SECTION 11. An officer who is connected with a prison, house of correction, insane asylum or hospital or other public charitable institution who is personally interested, directly or indirectly, in a contract, purchase or sale made on account of such institution, or who corruptly accepts a bribe, present or gratuity from any person interested in such contract or a person who is interested, directly or indirectly, in a contract connected with any such institution who corruptly gives, offers or promises to an officer of such institution a bribe, gift or gratuity, shall be punished by imprisonment in the state prison for not more than three years or by a fine of not more than one thousand dollars or by imprisonment in jail for not more than two years or by both such fine and imprisonment in jail.

Bribery of officer of public charitable institution, etc. 1872, 282. P. S. 206, § 13.

## CHAPTER 210.

### OF ESCAPES, ETC.

SECTION 14. Whoever conveys into the state prison, the Massachusetts reformatory or reformatory prison for

Aiding escape from prison, and rescuing prisoner.

C. L. 127, § 4.  
 1700-1, 2, §§ 3, 4.  
 1784, 41, § 2.  
 1805, 113, §§ 6, 8.  
 1811, 32, § 8.  
 1827, 118, § 24.  
 R. S. 123, § 12;  
 144, § 41.  
 G. S. 163, § 11;  
 179, § 57.  
 P. S. 205, § 16;  
 221, § 40.  
 119 Mass. 347.

women or into a jail, house of correction, house of reformation or like place of confinement, a disguise, instrument, tool, weapon or other thing which is adapted or useful to aid a prisoner in making his escape, with intent to aid the escape of a prisoner, or whoever, by any means, aids or assists such prisoner in an attempt to escape therefrom, whether such escape is effected or attempted or not, and whoever forcibly or fraudulently rescues or attempts to rescue a prisoner who is held in custody upon a conviction or charge of crime, shall, if the person whose escape or rescue was effected or intended is a convict under sentence in the state prison, be punished by imprisonment in the state prison for not more than ten years or by a fine of not more than five hundred dollars; but if he is a convict under sentence in any other of said institutions, by imprisonment in the state prison for not more than seven years, and if he is charged with a misdemeanor, then by imprisonment in jail for not more than two years or by a fine of not more than five hundred dollars.

Escape from  
 state prison.  
 1805, 113, §§ 9,  
 10.  
 1811, 32, §§ 9, 10.  
 1827, 118, §§ 11,  
 12.  
 R. S. 144, §§ 37,  
 38.  
 G. S. 179, §§ 53,  
 54.  
 1873, 73, § 1.  
 P. S. 221, §§ 36,  
 37.  
 5 Allen, 181.  
 101 Mass. 223.

SECTION 15. A convict who escapes from the state prison, or who attempts by violence to escape, or who assaults the warden or other officer or person employed in the prison, shall, in addition to his former sentence, if he is under sentence for a term of years, be punished by imprisonment in said prison for not more than ten years and by solitary imprisonment for not more than one year, to be executed forthwith or at such time or times either before or after the expiration of any former sentence as the court orders; and, if he is under sentence of imprisonment for life, by solitary imprisonment for not more than one year, to be executed at such time or times as the court orders.

— from prison  
 for women.  
 1835, 94, §§ 2, 3.

SECTION 16. A convict in the reformatory prison for women who escapes or attempts to escape therefrom or who, while being taken therefrom for any purpose, escapes or attempts to escape from the land appurtenant

thereto shall be punished by imprisonment in said prison or in the house of correction in the county of Middlesex for not more than two years. The first district court of southern Middlesex shall have jurisdiction concurrent with the superior court of violations of the provisions of this section.

SECTION 17. Whoever, being lawfully imprisoned in a penal institution, except the state prison, the state farm or the reformatory prison for women, breaks therefrom and escapes, or breaks therefrom with intent to escape, or by force or violence attempts to escape therefrom, shall be punished by imprisonment in the state prison for not more than five years or in the jail or house of correction for not more than three years or by a fine of not more than one thousand dollars.

Other escapes.  
1818, 123, § 7.  
1834, 151, § 14.  
R. S. 143, §§ 49-51.  
1851, 83.  
G. S. 178, § 46.  
P. S. 220, § 50.  
4 Met. 361.  
5 Met. 555.  
101 Mass. 24.  
133 Mass. 399.

SECTION 18. Whoever, being imprisoned in a penal institution, except the state prison, is taken outside of such institution by an officer thereof for the purpose of performing labor on any public land or building belonging to the commonwealth or to the county, city or town in which such institution is located, escapes or attempts to escape from the custody of such officer shall be deemed to have escaped from such institution and shall be punished by imprisonment for not more than six months.

Escapes when taken outside institutions.  
1882, 198.

SECTION 19. Whoever gives, sells or delivers spirituous or intoxicating liquor to a person who is confined in any prison or other place of confinement, or to a person who is in the custody of a sheriff, constable, police officer, warden of a prison, or other master or keeper of a place of confinement, or has in his possession, within the precincts of any prison or other place of confinement, any such liquor, with intent to convey or deliver it to any person who is confined therein, unless under the direction of the physician appointed to attend such prisoner, shall be punished by a fine of not more than fifty dollars or by imprisonment for not more than two months. *Whoever gives or delivers to a prisoner in the state farm, in*

Furnishing liquor to prisoner.  
1834, 151, § 21.  
R. S. 143, § 37.  
1854, 83.  
G. S. 178, § 43.  
P. S. 222, § 2.

Penalty for giving articles to prisoners

without per-  
mission.  
1806, 268.

*the temporary industrial camp for prisoners, or in any jail or house of correction, any drug or article or thing whatever, or has in his possession within the precincts of any prison herein named with intent to give or to deliver to any prisoner any such drug or article or thing without the permission of the superintendent, master or keeper, as the case may be, shall be punished by a fine of not more than fifty dollars or by imprisonment in a jail or house of correction for not more than two months.*

Same subject.  
1817, 149, §§ 3, 4,  
1823, 148, §§ 2, 4,  
1834, 151, §§ 20,  
21.  
R. S. 143, §§ 36,  
37.  
G. S. 178, §§ 42,  
44.  
P. S. 220, §§ 47,  
48.

SECTION 20. A sheriff, jailer, master of a house of correction or other officer or under keeper of a prison who, under any pretence, gives, sells or delivers or knowingly permits to be given, sold or delivered to a prisoner in his custody who has been committed to jail for debt and is there supported at the expense of the creditor, or to a prisoner who is detained upon a conviction or charge of crime, any spirituous liquor or mixed liquor a part of which is spirituous, or wine, cider or strong beer, unless the physician of the prison certifies in writing that the health of the prisoner requires it; or such sheriff, jailer, master of a house of correction or other officer or under keeper of a prison who willingly or negligently suffers such prisoner to have or drink any spirituous, fermented or other strong or mixed liquor or who places or keeps together prisoners in his custody of different sexes or classes, contrary to the provisions of section seventeen of chapter two hundred and twenty-five, shall forfeit twenty-five dollars for the first offence and fifty dollars for any subsequent offence which is committed after the first conviction, and, upon such second conviction, shall be further sentenced to be removed from office, and to be incapable of holding the office of sheriff, deputy sheriff, jailer, master or keeper of any prison for five years thereafter. If the physician certifies that the health of the prisoner requires such liquor, the prisoner shall be allowed the quantity prescribed and no more.

SECTION 21. Whoever aids or assists a prisoner in escaping or attempting to escape from an officer or person who has the lawful custody of such prisoner shall be punished by imprisonment for not more than two years or by a fine of not more than five hundred dollars.

Aiding escape from an officer.  
1811, 32, § 8.  
1827, 118, § 24.  
R. S. 128, § 13.  
G. S. 163, § 12.  
P. S. 205, § 17.  
119 Mass. 291.

SECTION 22. Whoever wilfully disturbs the state prison, the Massachusetts reformatory, the reformatory prison for women, or a jail or house of correction, or in any manner seeks to attract the attention of, or without the permission of the officer in charge has communication with, an inmate thereof shall be punished by imprisonment for not more than three months or by a fine of not more than fifty dollars.

Disturbance of penal institutions.  
1885, 303.

SECTION 23. Whoever delivers or procures to be delivered, or has in his possession with intent to deliver, to a convict confined in the state prison, the Massachusetts reformatory or the reformatory prison for women, or whoever deposits or conceals in or about the prison or reformatories or the dependencies thereof, or upon any land appurtenant thereto, or in any boat, carriage or other vehicle going into the premises belonging to the prison or reformatories, any article or thing, with intent that a convict shall obtain or receive it, and whoever receives from a convict any article or thing with intent to convey it out of the prison or reformatory, contrary to the rules and regulations thereof, and without the knowledge and permission of the board of prison commissioners, of the warden of the state prison or the superintendents of said reformatories, respectively, shall be punished by imprisonment in the state prison or jail for not more than three years or by a fine of not more than five hundred dollars.

Illicit conveyance of articles to or from reformatory.  
1805, 113, § 8.  
1825, 84, § 4.  
R. S. 144, § 42.  
1838, 152, § 1.  
G. S. 179, § 58.  
1878, 133.  
1879, 294, § 34.  
P. S. 221, § 41.  
1887, 339.

SECTION 25. A jailer or other officer who, except as provided in the following section, voluntarily suffers a prisoner in his custody upon conviction or upon a charge of crime to escape shall suffer the punishment and penalties to which the prisoner whom he suffered to escape

Voluntary escape.  
1700-1, 2, § 6.  
1784, 41, § 3.  
R. S. 128, § 14.  
G. S. 163, § 13.  
P. S. 205, § 18.



was sentenced or would be liable to suffer upon conviction of the crime wherewith he stood charged.

Escape from  
state prison.  
1805, 113, § 6.  
1827, 113, § 22.  
R. S. 144, § 39.  
G. S. 179, § 56.  
P. S. 221, § 38.

SECTION 26. An officer or other person, who, being employed in the state prison, voluntarily suffers a convict confined therein to escape, or in any way consents to such escape, shall be punished by imprisonment in said prison for not more than twenty years.

Negligent  
escape, and  
refusal to  
receive a  
prisoner.  
C. L. 128, § 2.  
1700-1, 2, § 7.  
1784, 41, § 3.  
R. S. 128, § 15.  
G. S. 163, § 14.  
P. S. 205, § 19.

SECTION 27. A jailer or other officer who, through negligence, suffers a prisoner in his custody upon conviction or upon a charge of crime to escape, or wilfully refuses to receive into his custody a prisoner lawfully directed to be committed thereto upon conviction, upon a charge of crime, or upon a lawful process, shall be punished by imprisonment for not more than two years or by a fine of not more than five hundred dollars.

Leaving pris-  
oner at large.  
1805, 113, § 7.  
1811, 32, § 7.  
1827, 113, § 23.  
G. S. 179, § 56.  
P. S. 221, § 39.

SECTION 28. An officer or person who, being employed in the state prison, suffers a convict under sentence of solitary imprisonment to be at large or out of the cell assigned to him, or suffers any convict who is confined in the prison to be at large out of the prison, or to be visited, conversed with or in any way relieved or comforted, contrary to the regulations of the prison, shall be punished by a fine of not more than five hundred dollars.

## CHAPTER 210.

### DELAY OF PROCESS.

Officer taking  
bribe for  
neglecting  
his duty.  
R. S. 128, § 22.  
G. S. 163, § 21.  
P. S. 205, § 28.

SECTION 38. A sheriff, constable or other officer who, being authorized to serve legal process, receives from a defendant or from any other person any money or other valuable thing as a consideration, reward or inducement for omitting or delaying to arrest a defendant, or to carry him before a magistrate, or for delaying to take a person to prison, or for postponing the sale of property under an execution, or for omitting or delaying to perform any duty appertaining to his office, shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than three months.

## CHAPTER 212.

## OF PROBATION FOR DRUNKENNESS.

SECTION 37. *Whoever arrests a person for drunkenness shall make a complaint against him therefor at the next session of the court or of the trial justice having jurisdiction of the case; and such court or trial justice may proceed to hear and to dispose of the same according to due course of law; and may, if the accused has been released under the provisions of this section, order the issuance of a warrant for the arrest, or a summons for the appearance, of the accused for trial, or if the court is satisfied by the report of its probation officer, or otherwise, or if the trial justice is satisfied upon inquiry that the accused has not twice before been arrested for drunkenness within a year, and that his statement in writing hereinafter mentioned is true, the court or trial justice may thereupon direct that the accused, if still in custody, be released without arraignment; and if not in custody, that further proceedings in the case be suspended or that the complaint be dismissed.*

Persons arrested for drunkenness may be released in certain cases, etc. 1905, 384, § 1.

*A person so arrested may, after he has recovered from his intoxication, make a statement in writing, addressed to the court or trial justice having jurisdiction of his offence, giving his name and address, setting forth what persons, if any, are dependent upon him for support, his place of employment, if any, and whether he has been arrested for drunkenness within the twelve months next preceding, and requesting to be released from custody; and may deliver said statement to the officer in charge of the place in which he is confined, who shall indorse thereon the name of the arresting officer, and if the arrest is made within the jurisdiction of a trial justice, his opinion of the probable truth of said statement for the use of such trial justice, and shall transmit the same to such trial justice; and if the arrest is made within the jurisdiction of a court having a probation officer, the officer in charge of the*

Persons so arrested may make a statement in writing and request to be released from custody, etc. 1905, 384, § 1.

place in which he is confined shall transmit such statement to said probation officer. Said probation officer, or his assistants, shall forthwith inquire into the truth thereof and shall investigate the record of said person as to previous similar offences, and, for the use of the court having jurisdiction of the case, shall indorse on such statement, with his signature, the result of his investigation. The officer for the time being in charge of the place of custody in a town where no probation officer resides forthwith may release, and elsewhere the probation officer or assistant probation officer of the court having jurisdiction of the offence may direct the officer in charge of the place of custody forthwith to release, and such officer so in charge shall thereupon release, such arrested person pursuant to his request: provided, that the officer so releasing or directing the release believes that the person arrested has given his true name and address, that he will appear upon a summons, and that he has not twice before been arrested for drunkenness within the preceding twelve months.

Proviso.

Persons arrested for drunkenness to be informed of their right to make statement, etc. 1906, 864, § 2.

The officer in charge of the place of custody in which a person arrested for drunkenness is confined shall inform him, when he has recovered from his intoxication, of his right to make a statement in writing and request for release as aforesaid, and an officer making an arrest under the authority of the preceding section\* shall not be liable for illegal arrest or imprisonment, if the person arrested is released at his request as herein provided.

Record of persons released. 1891, 427, § 4.

SECTION 38. A full record shall be kept by every court or trial justice of each case in which a person is released, as aforesaid, with the statement made by him. If a person is so released by any municipal court in

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\* Section 36 of chapter 212 reads: Whoever is found in a state of intoxication in a public place or is found in any place in a state of intoxication committing a breach of the peace or disturbing others by noise, may be arrested without a warrant by a sheriff, deputy sheriff, constable, watchman or police officer, and kept in custody in a suitable place until he has recovered from his intoxication.

Boston, or within their jurisdiction, a certified copy of said statement and the name of the officer making the arrest shall be sent by such court to the clerk of the municipal court of the city of Boston for criminal business.

SECTION 39. If a male is convicted of drunkenness by the voluntary use of intoxicating liquor, he may be punished by imprisonment in jail or in any place provided by law for common drunkards for not more than one year; or by imprisonment in the Massachusetts reformatory, as provided in section twenty-nine of chapter two hundred and twenty. If a female is so convicted, she may be punished by imprisonment in jail or in any place provided by law for common drunkards for not more than one year or in the reformatory prison for women [for not more than two years].\* If the person so convicted shall satisfy the court or trial justice, by his own statement or otherwise, that he has not been arrested for drunkenness twice before within the preceding twelve months, or that, having been so arrested, he has been tried and acquitted in one of the cases, his case may be placed on file, or he may be punished by a fine of not more than fifteen dollars, and upon non-payment thereof he shall be committed to the jail, or house of correction, or to the workhouse, if there is any which has a criminal department in the city or town in which the offence was committed, until the fine is paid, but not more than thirty days. If a male is convicted of drunkenness three times within twelve months he may be sentenced to the Massachusetts reformatory.

Punishment of drunkenness.  
C. L. 80, § 4.  
1692-3, 18, § 2.  
1693, 9.  
1733-4, 13.  
R. S. 130, § 18.  
1860, 166.  
G. S. 165, § 25.  
1869, 452.  
1872, 301.  
1879, 229, § 1.  
1880, 221, §§ 1, 2;  
247, § 1.  
1881, 276.  
P. S. 207, §§ 26-28.  
1885, 365, § 2;  
375.  
1886, 323, § 1.  
1888, 377.  
1891, 427, § 5.  
1892, 303.  
1893, 447.  
116 Mass. 340.  
157 Mass. 471.

SECTION 40. Probation officers shall assist the courts appointing them, by obtaining and furnishing information relative to previous arrests, convictions and imprisonments for drunkenness, and such other facts as the court orders relative to persons accused of drunkenness.

Duties of probation officers.  
1891, 427, §§ 6, 7.

\* All sentences to the reformatory prison for women for drunkenness are indeterminate by Acts of 1903, chapter 209.

They shall keep a full record, well indexed, of each such case which they investigate, in such form as the court orders. Probation officers of the municipal courts in Boston shall furnish a copy of the record in each such case to the municipal court of the city of Boston, which shall cause all records and statements received by it to be so consolidated and kept that they may be readily consulted, and for such purpose may employ the necessary clerical assistance. The compensation for such service, which shall be fixed by the court, and such other necessary expenses as the court shall incur in complying with the provisions of this section shall be paid by the county of Suffolk, upon vouchers approved by the court.

Records open  
to inspection.  
1891, 427, § 7.

SECTION 41. Records and statements made under the provisions of the four preceding sections shall be at all times open to the police officials of the cities and towns of this commonwealth. The board of police of Boston, city marshals and chiefs of police of other cities and towns, keepers of jails and masters of houses of correction shall furnish to each other and to probation officers, and probation officers shall on application furnish to each other, all information in their possession relative to persons whose cases are under investigation.

## CHAPTER 212.

### OF NON-SUPPORT.

Non-support of  
wife or child.  
1882, 270, § 4.  
1884, 210.  
1885, 176.  
1893, 262.  
136 Mass. 435.  
156 Mass. 435.  
157 Mass. 73.  
165 Mass. 356.

SECTION 45. Whoever unreasonably neglects to provide for the support of his wife or minor child shall be punished by a fine of not more than twenty dollars or by imprisonment for not more than six months. All fines imposed under the provisions of this section may, in the discretion of the court, be paid in whole or in part to the city, town, corporation, society or person actually supporting such wife or minor child at the time of making the complaint. Proof of neglect to provide for the support of a wife or minor child as aforesaid shall be prima facie evidence that such neglect is unreasonable. *If a*

*person punishable under the provisions of this section is placed on probation, the court may require, as a condition thereof, that from time to time he shall pay to his wife for her support and for the support of his minor child such reasonable sum as the court shall direct, or that he shall pay the same to the probation officer of said court, or to such other person as the court shall designate, for the support of the wife or child. The court may from time to time modify and change its decrees as the interests of justice require; and the court may, in its discretion, also require such person to give a bond, with sufficient sureties, payable to the justice thereof, and to his successors, that he will make the said payments. The bond shall be for an amount not exceeding two hundred dollars, and the court may, in its discretion, release such person upon his own recognizance in a sum not exceeding two hundred dollars, whenever the interests of justice so require. Suit may be brought upon the bond by any person authorized thereto by the court, and the proceeds of the suit shall be applied to the support of the wife or child as aforesaid.*

Support of  
wives and  
minor children  
by persons  
placed on  
probation.  
1905, 307.

## CHAPTER 212.

### CONDITIONAL SENTENCE.

SECTION 48. A person who is convicted by a police, district or municipal court or trial justice of an offence mentioned in section forty-six\* may, instead of the punishment therein mentioned, be punished by a fine of not more than twenty dollars, either with or without a condition that, if it is not paid within a time specified, such person shall be punished as provided in said section; and such conditional sentence shall be carried into execution according to the provisions of section nine of chapter two hundred and twenty.†

Conditional  
sentence.  
1884, 151, § 3.  
R. S. 143, § 6.  
1887, 157.  
1861, 346.  
G. S. 155, § 29.  
P. S. 207, § 30.

\* See footnote on page 95 for provisions of section 46.

† See also section 1 of chapter 220, Revised Laws, page 131.

## CHAPTER 217.

## SUPPORT OF FUGITIVE FROM JUSTICE.

Expenses.  
R. S. 142, § 11.  
G. S. 177, § 11.  
P. S. 218, § 11.

SECTION 20. The complainant in such case shall be answerable for all actual costs and charges and for the support in jail of a person so committed, which shall be paid as by a creditor for his debtor committed on execution. If the charge for support in jail is not so paid, the jailer may discharge him as if he had been committed on execution.

## CHAPTER 217.

## OF WITNESSES AND PERSONS UNDER ARREST.

Discharge on  
recognizance,  
when.  
1894, 406, § 1.

SECTION 50. If a witness has been committed because of his inability to furnish sureties for his appearance before the superior court, the jailer shall forthwith give notice to the chief justice of the superior court, who shall direct the district attorney to inquire as to the importance of his testimony and the necessity for detaining him in jail, and the district attorney, if, in his opinion, the public interest will not suffer by the release of the witness on his own recognizance, shall so report to the chief justice, who may thereupon order the witness to be released upon his own recognizance.

Treatment of  
witnesses in  
jail.  
1894, 270.

SECTION 51. The prison commissioners shall from time to time make such rules relative to the diet, size of cells, amount of liberty and exercise, correspondence, visits and such other matters as they consider necessary regulating the treatment of witnesses held in jail as will secure their clear distinction and separation from other prisoners as far as possible, consistent with their safe custody and the prevention of tampering with their testimony. Said commissioners may, with the approval of the district attorney, remove such witnesses from the jail in which they are confined to a jail in another county, and shall, at the request of the district attorney, cause them to be returned to the jail whence they were removed. The proceedings

upon such removal shall be the same as are provided for the removal of prisoners from one jail or house of correction to another. The cost of support of a witness so removed and the cost of both removals shall be paid by the county from which he is removed.

SECTION 52. An officer having the custody or control of prisoners, who causes or permits male and female prisoners to be transported together to or from a court in a van or other carriage, in a city having more than thirty thousand inhabitants according to the latest census, shall be punished by a fine of not more than twenty dollars.

Transportation of male and female prisoners.  
1894, 273.

SECTION 53. An officer having the custody of a witness who has been committed because of his failure to furnish sureties, who causes or permits him to be handcuffed to a person who is held in custody charged with or sentenced for crime, or to be transported within a city to or from any court or prison in a van or carriage with such person, shall be punished by a fine of not more than twenty dollars.

Treatment by officers of witnesses in custody.  
1894, 160.

SECTION 54. If a person who is committed to jail is under indictment or complaint for, or is under recognizance to answer to, a charge of assault and battery or other misdemeanor for which he is liable in a civil action, unless the offence was committed by or upon a sheriff or other officer of justice, or riotously, or with intent to commit a felony, and the person injured appears before the court or justice who made the commitment or took the recognizance, or before which the indictment or complaint is pending, and acknowledges in writing that he has received satisfaction for the injury, the court or justice may in its or his discretion, upon the payment of such expenses as it or he shall order, discharge the recognizance or supersede the commitment, or discharge the defendant from the indictment or complaint, and may also discharge all recognizances and supersede the commitment of all witnesses in the case.

Discharge, if injured party satisfied.  
R. S. 135, § 25;  
136, § 27.  
1846, 198.  
G. S. 170, § 33;  
171, § 28.  
P. S. 212, § 43;  
213, § 36.  
12 Allen, 402.  
115 Mass. 136.  
120 Mass. 403.



Discharge,  
a bar to civil  
action.  
R. S. 135, § 26;  
136, § 27.  
G. S. 170, § 34;  
171, § 28.  
P. S. 212, § 44;  
213, § 36.  
12 Allen, 402.

SECTION 55. Such order discharging the recognizance, indictment or complaint of the person or the recognizance of witnesses shall be filed in the office of the clerk before the sitting of the court at which they are bound to appear; and such order superseding the commitment of the person charged or of a witness shall be delivered to the keeper of the jail in which he is confined, who shall forthwith discharge him; and such order, so filed and delivered, shall forever bar a civil action for such injury.

What magis-  
trates may  
admit to bail.  
1812, 30.  
R. S. 135, § 22.  
1851, 92, § 2.  
1855, 265, § 1.  
G. S. 170, § 36.  
1874, 306, § 4.  
1878, 188, § 4.  
1879, 228.  
P. S. 212, § 46.  
1898, 411, § 1.

SECTION 56. A justice of the supreme judicial court or of the superior court, a standing or special commissioner appointed by either of said courts, a justice or clerk of a police, district or municipal court, a master in chancery or a trial justice, upon application of a prisoner held under arrest or committed, either on a warrant or without one, or held in the custody of an officer under a mittimus, may inquire into the case and admit such prisoner to bail; and may admit to bail any person who is committed for not finding sureties to recognize for him. All persons authorized to take bail under the provisions of this section shall be governed by the rules established by the supreme judicial court or the superior court.

Notice to  
officer if bail  
not fixed.  
1851, 92, § 2.  
1855, 265, § 1.  
G. S. 170, § 37.  
1879, 89.  
P. S. 212, § 47.  
107 Mass. 227.

SECTION 57. If the person is committed without an order fixing the amount of the recognizance, he shall not be admitted to bail under the provisions of the preceding section until reasonable notice of his application has been given to the officer by whom he was committed, or a hearing has been given to the officer in whose custody he is held; and if committed with such order, he shall not be admitted to bail, except by a justice of the supreme judicial court or of the superior court, for a less amount than is required by the order.

Bail in Suffolk  
county.  
1862, 159, § 1.  
P. S. 212, § 48.  
151 Mass. 392.

SECTION 58. After a conviction or a plea of guilty or of nolo contendere in the superior court in the county of Suffolk, the prisoner shall not be admitted to bail except in open court; but when said court is not in session, bail may be taken by any judge of a court of record or by

any commissioner appointed by the justices of the superior court, upon proof that written notice of the proposed application has been duly served upon the district attorney or one of the assistant district attorneys for the Suffolk district at least twenty-four hours before the hearing of such application, specifying the name of the prisoner, the crime of which he has been convicted, the time and place of hearing and the name, occupation and residence of the proposed sureties. No person who has been once offered and rejected as surety shall afterward be accepted as surety for the same person in the same case.

SECTION 62. Persons who are committed to jail on the Lord's day, or on the preceding evening or afternoon, may, in the discretion of the magistrate, be admitted to bail on that day.

Bail on the Lord's day.  
1855, 285, § 2.  
G. S. 170, § 88.  
P. S. 212, § 52.  
168 Mass. 519.

SECTION 65. A person who, being arrested on a criminal charge, forfeits or makes default upon his bail bond or recognizance or has been surrendered by a probation officer shall not be again released upon further bail or recognizance in the same case, unless by order of a justice of the court in which such charge was pending at the time of said default or of such surrender by a probation officer.

Forfeiture of bail a bar to further bail.  
1862, 169, § 1.  
1874, 306, § 1.  
1879, 87.  
P. S. 212, § 55.  
1901, 215.  
13 Allen, 396.  
128 Mass. 224.

SECTION 66. Bail in criminal cases may exonerate themselves at any time before default upon their recognizance by surrendering their principal into court or to the jailer in the county in which the principal is held to appear. They shall deliver to the jailer their principal, with a certified copy of the recognizance, and he shall be received and detained by the jailer, but may be again bailed in the same manner as if committed for not finding sureties to recognize for him.

Surrender of principal before default.  
New bail.  
1863, 59, § 1.  
P. S. 212, § 56.

## CHAPTER 217.

### PROBATION OFFICERS.

SECTION 81. The superior court may appoint probation officers and the justice of each police, district or

Probation officers.  
1880, 129, § 1.  
P. S. 212, § 74.

1882, 125.  
1891, 356, § 1.  
1892, 242; 276,  
§§ 1, 3.  
1897, 266, §§ 1, 3.  
1898, 511, § 1.  
1905, 295.

municipal court and the chief justice of the municipal court of the city of Boston shall appoint one probation officer. Said chief justice may also appoint not more than five male and two female assistant probation officers. *The justice of the municipal court of the South Boston district and the justice of the municipal court of the Roxbury district may also each appoint one female assistant probation officer.* Each probation officer and assistant probation officer so appointed shall hold his office during the pleasure of the court which makes the appointment.

Probation  
officers pro  
tempore.  
1894, 372.

SECTION 82. The justice of a police, district or municipal court may, in the absence of the probation officer, appoint a probation officer pro tempore, who shall have the powers and perform the duties of the probation officer, and who shall receive from the county as compensation for each day's service an amount equal to the rate by the day of the compensation of the probation officer; but compensation so paid for any excess over fourteen days' service by a probation officer pro tempore in any one calendar year shall be deducted by the county treasurer from the compensation of the probation officer.

Powers; in-  
spection of  
records.  
1880, 129, §§ 1, 5.  
P. S. 212, § 74.  
1891, 356, § 2.  
1898, 511, § 1.

SECTION 83. Said probation officers shall not be active members of the regular police force, but so far as necessary in the performance of their official duties shall have all the powers of police officers, and if appointed by the superior court may, by its direction, act in any part of the commonwealth and shall report to the court. Their records may at all times be inspected by the chief of police or city marshal of any city or town, or by the board of police for the city of Boston.

Duties.  
1880, 129, §§ 3-5.  
P. S. 212, §§ 75-  
77.  
1891, 356, §§ 3, 4.  
1892, 276, § 2.  
1897, 266, § 2.  
1898, 511, § 1.

SECTION 84. Each probation officer shall inquire into the nature of every criminal case brought before the court under the appointment of which he acts, and may recommend that any person convicted thereby be placed upon probation. Female assistant probation officers shall investigate the cases of all women charged with crime in the municipal court of the city of Boston and perform

such other duties as the justices of said court may require. Each probation officer shall keep full records of all cases investigated by him, of all cases placed in his care by the court, and of any other duties performed by him. The court may place the person so convicted in the care of a probation officer for such time and upon such conditions as may seem proper. The superior court may also place upon probation under any of its probation officers any person charged before it with crime. Each person released upon probation shall be furnished by the probation officer with a written statement of the terms and conditions of his release.

SECTION 85. The probation officers of such police, district and municipal courts as the prison commissioners shall from time to time designate shall give such information relative to their work to said commissioners as they shall request and shall report to said commissioners, upon forms to be furnished by them, such facts as the commissioners desire relative to all cases brought before said courts which are investigated by said officers, and relative to the cases of all persons placed on probation in their custody. The prison commissioners shall keep a record of all cases reported to them, in a form convenient for reference. *The probation officers of the superior court shall make to the board of prison commissioners such reports as said commissioners shall require.*

Same subject.  
1880, 129, § 2.  
P. S. 212, § 80.  
1891, 356, § 5.  
1900, 449, § 3.

Probation  
officers of  
superior court  
to make  
reports.  
1902, 196.

SECTION 86. If, in the opinion of a probation officer of a police, district or municipal court, a person who is arrested within the jurisdiction of the court by which he is appointed resides within the jurisdiction of another court, he shall forthwith apply for information relative to such person to the prison commissioners and they shall forthwith furnish to him such information as they have or can obtain through other probation officers or police officials. They shall also send to the probation officer of the court within the jurisdiction of which such person resides such information as they receive relative to such case. Police officers

Duties.  
1900, 449, § 4.

of cities and towns shall co-operate with such probation officers and with said commissioners, in obtaining information, and said probation officers shall assist each other and said commissioners in their duties. The commissioners shall give to the board of police for the city of Boston, to all chiefs of police and to city marshals all the information which they have in any case relative to which said police officials may inquire.

Conferences  
between com-  
missioners,  
courts and  
officers.  
1900, 449, § 5.

SECTION 87. The prison commissioners shall, from time to time, confer with the justices of the several courts for the purpose of securing an improvement of the probation service, of promoting uniformity in the performance of the duties of probation officers and of obtaining a better co-ordination of their work. They shall also confer with the probation officers of said courts and give them such assistance as will promote the best interests of the service.

— between pro-  
bation officers.  
1900, 449, § 6.

SECTION 88. If the prison commissioners are of opinion that a conference of any or all of the probation officers and assistant probation officers will secure their better co-operation with each other and will promote the efficiency of their work, they shall cause such conference to be held, and one of the commissioners shall preside over it.

Report and  
recommenda-  
tions.  
1900, 449, § 7.

SECTION 89. The prison commissioners shall annually, in November, report to the governor on the operation of the probation system and its results, and make recommendations for the improvement of the service.

Assistance, etc.  
1900, 449, § 8.

SECTION 90. Said commissioners shall be provided with such additional office accommodations as they may need and the necessary facilities for carrying on the work required by the five preceding sections, and may employ such assistance as the governor and council shall from time to time authorize.

Notice to  
prison com-  
missioners.  
1880, 129, § 2.  
P. S. 212, § 74.  
1891, 356, § 5.  
1898, 511, § 8.

SECTION 91. Upon the appointment or removal of a probation officer or assistant probation officer, the clerk of the court by which the appointment or removal is made

shall forthwith give notice to the prison commissioners of the officer so appointed or removed.

SECTION 92. The compensation of each probation officer and assistant probation officer of a police, district or municipal court shall be determined by the justice thereof, subject to the approval of the county commissioners, and shall be paid by the county, upon vouchers approved by said justice and the county commissioners, or, in the county of Suffolk, by the institutions commissioner. The salary of each probation officer who is appointed by the superior court shall be determined by the court, and shall be apportioned by it from time to time among the counties wherein said officer performs his services.

Compensation.  
1891, 356, § 6.  
1892, 276, § 1.  
1897, 266, § 1.  
1898, 511, § 2.

SECTION 93. The reasonable expenses incurred by probation officers of the superior court in the performance of their duties shall be approved and apportioned by the court, and paid by the county to which they are thus apportioned. Probation officers of police, district and municipal courts shall be reimbursed by the county for their actual disbursements for necessary expenses incurred while in the performance of their duties, including their reasonable travelling expenses in attending the conferences authorized by section eighty-eight, not exceeding two hundred dollars to each in any one year, upon vouchers approved by the justice by whom they are appointed.

Expenses.  
1894, 229.  
1898, 511, § 2.  
1900, 279; 449,  
§ 6.

SECTION 94. A police, district or municipal court may authorize a probation officer to expend such amount as the court considers expedient for the temporary support or transportation, or both, of a person placed on probation, and such amount shall be repaid to the probation officer by the county upon vouchers approved by the court. A record of any amount so authorized shall be entered on the clerk's docket of the case.

Support of  
probationers.  
1894, 368.

SECTION 95. A probation officer or assistant probation officer who refuses or neglects to perform any of the duties required of him by the seven preceding sections

Penalty for  
neglect of  
duties.  
1891, 356, § 8.  
1892, 276, § 3.  
1897, 266, § 3.

shall forfeit two hundred dollars to the use of the commonwealth.

Information to  
court of prior  
convictions.  
1880, 129, § 11.  
P. S. 212, § 79.

SECTION 96. Every probation officer shall inform the court, so far as is possible, whether a person on trial has previously been convicted of crime.

Duties of state  
board of  
charity not  
affected.  
1880, 129, § 12.  
P. S. 212, § 81.  
1886, 101, § 4.  
1891, 355, § 9.

SECTION 97. The provisions of the eleven preceding sections shall not authorize a probation officer to interfere with any of the duties required of the state board of charity, under the provisions of law relative to juvenile offenders.

#### CHAPTER 219.

##### ACQUITTED PERSON NOT LIABLE FOR SUBSISTENCE IN JAIL.

Person acquitted,  
etc., not  
liable for fees.  
R. S. 137, § 18.  
G. S. 172, § 18.  
P. S. 214, § 22.

SECTION 18. No prisoner or person under recognizance, who is acquitted by verdict or discharged because no indictment has been found against him, or for want of prosecution, shall be liable for any costs or fees or for any charge for subsistence while he was in custody.

#### CHAPTER 219.

##### WITHDRAWAL OF APPEAL.

Withdrawal of  
appeal.  
1874, 33, § 1.  
P. S. 154, § 12;  
155, § 63.  
1893, 396, § 51.  
1894, 431.

SECTION 28. The appellant may, at any time before the copy of the record of conviction has been transmitted to the clerk of the superior court, come personally before the court or trial justice from whose judgment the appeal was taken, and, upon motion, may be permitted by the court or trial justice to withdraw his appeal and abide by the sentence therein. Thereupon the court or trial justice shall order that the appellant comply with the sentence appealed from in the same manner as if it were then first imposed, and the sureties who had recognized with the appellant upon his recognizance to prosecute his appeal shall be discharged.

Withdrawal if  
appellant in  
jail.  
1874, 33, § 2.  
P. S. 154, § 12;  
155, § 64.  
1893, 396, § 52.  
1894, 431.

SECTION 29. If the appellant is detained in jail for want of sureties to prosecute his appeal, he may give notice to the jailer of his desire to avail himself of the provisions of the preceding section, and the jailer shall

cause him to be produced before the court or trial justice from whose judgment his appeal was taken and the proceedings shall be as provided in the preceding section.

SECTION 30. In such case, compensation shall be allowed and paid by the city or town in which the crime was committed to the jailer for his expenses in the conveyance and custody of the appellant, at the same rate as is allowed to officers serving a mittimus. If the appeal was from a sentence to pay a fine, the fees of the jailer shall be paid by the appellant if, after the appeal is withdrawn, he pays the fine as provided in section twenty-eight.

Fees allowed to jailer.  
1874, 33, § 3.  
P. S. 154, § 12;  
155, § 65.  
1890, 328, § 2;  
440, § 2.  
1891, 325, § 1.  
1893, 396, § 53.  
1894, 431.

## CHAPTER 220.

### OF JUDGMENT AND EXECUTION.

SECTION 1. *When a person convicted before a municipal, police or district court is sentenced to imprisonment, or to pay a fine and to stand committed until the same is paid, the court may direct that the execution of said sentence be suspended, and that he be placed on probation for such time and on such terms and conditions as it shall fix. In case the sentence is to pay a fine not exceeding ten dollars, and to stand committed until the same is paid, if the court finds that the defendant is unable to pay the fine when it is imposed, and will not probably default, and that it will not be detrimental to the interests of the public, the execution of the sentence shall be so suspended and he shall be placed on probation. When the execution of a sentence to pay a fine has been suspended as aforesaid, one of the conditions of the probation shall be that the fine shall be paid during the period of probation. Said fine shall be paid to the probation officer, whereupon the order of commitment shall be void. The probation officer shall give a receipt for every fine so paid, shall keep a record of the same, shall pay the fine to the clerk of the court at its next session, and shall keep on file the clerk's receipt therefor. If at the end of said period the probation officer shall report to the court that the fine*

Execution of sentences may be suspended by the courts in certain cases, etc.  
1905, 338.



*is unpaid, and that in his opinion the person is unable to pay the same, the court may either extend said period, place the case on file or revoke the suspension of the execution of the sentence.*

Arrest of  
person on  
probation.  
1897, 238.  
1900, 449, § 2.

SECTION 2. At any time before the final disposition of the case of a person who has been placed on probation in the custody of a probation officer, the probation officer may arrest him without a warrant and take him before the court, or the court may issue a warrant for his arrest. When he is taken before the court, it may, if he has not been sentenced, sentence him or make any other lawful disposition of the case, and if he has been sentenced, it may continue or revoke the suspension of the execution of his sentence. If such suspension is revoked, the sentence shall be in full force and effect.

Sentence, not-  
withstanding  
appeal, etc.  
1891, 362.  
1895, 469.  
187 Mass. 13,  
144.  
170 Mass. 16.  
175 Mass. 37.

SECTION 3. Sentence shall be imposed upon conviction of a crime which is not punishable by death, although exceptions have been alleged or an appeal has been taken. The reservation, filing or allowance of exceptions, or the entry of an appeal, shall not stay the execution of the sentence unless the justice imposing it, or a justice of the supreme judicial court, files a certificate that in his opinion there is reasonable doubt whether the judgment should stand. If sentence is so stayed, the justice may at the same time make an order relative to the custody of the prisoner or for admitting him to bail.

—if no statu-  
tory punish-  
ment.  
1782, 9, § 1.  
R. S. 139, § 1.  
G. S. 174, § 1.  
P. S. 215, § 1.  
13 Allen, 581.  
165 Mass. 446.  
Amended 1902,  
544, § 34.

SECTION 4. If no punishment for a crime is provided by statute, the court shall impose such sentence, according to the nature of the crime, as conforms to the common usage and practice in this commonwealth. *If a person is convicted of a misdemeanor which is punishable by imprisonment, he may, unless it is otherwise expressly provided, be sentenced to imprisonment either in the jail or in the house of correction.*

—to jail or  
house of cor-  
rection.  
1884, 151, § 17.  
R. S. 143, § 17.  
G. S. 174, § 4.

SECTION 5. Whoever is convicted of a crime which is punishable wholly or in part by imprisonment in jail may be sentenced to such imprisonment in the house of

correction or to solitary imprisonment and confinement at hard labor either in the jail or house of correction; and if convicted of a crime which is punishable by imprisonment in the house of correction may be sentenced to such imprisonment in a jail.\*

P. S. 215, § 3.  
1882, 241, § 1.  
2 Met. 419.  
4 Met. 361.  
161 Mass. 120.

SECTION 6. Whoever is convicted of a crime which is punishable by a fine, and is liable to imprisonment in the jail for the non-payment of fine, may be sentenced to such imprisonment in the house of correction, and to confinement at hard labor either in the jail or house of correction.

Same subject.  
1845, 118.  
G. S. 174, § 5.  
P. S. 215, § 4.  
2 Met. 411.

SECTION 7. A convict upon whom two or more sentences to imprisonment are imposed may be fully committed upon all such sentences at the same time, and shall serve them in the order named in the mittimuses upon which he is committed.

Commitments upon two or more sentences.  
1884, 265.

SECTION 8. If a convict is sentenced to pay a fine in more than one case and has been committed to a jail, house of correction or other prison for refusing to pay such fine, the subsequent sentence shall take effect upon the expiration of the imprisonment under the former sentence.

Second sentence for non-payment of fine.  
1874, 253.  
P. S. 215, § 5.

SECTION 9. If a person has been convicted of a crime which is punishable, at the discretion of the court, by fine or imprisonment in the jail or house of correction or by fine or imprisonment in the state prison, the court may impose upon him a conditional sentence, and order him to pay a fine within a limited time which shall be expressed in the sentence, and in default thereof to suffer such imprisonment as is provided by law. He shall be forthwith committed to the custody of an officer in court or to the jail, to be detained until the sentence is complied

Conditional sentence.  
1788, 53, §§ 1, 2.  
1834, 151, § 17.  
R. S. 139, §§ 2, 3.  
G. S. 174, §§ 6, 7.  
P. S. 215, §§ 6, 7.  
5 Met. 560.

\* For an exception see section 20 of chapter 86 of the Revised Laws as amended by chapter 314, Acts of 1902, which reads as follows:—Section 20. A child under twelve years of age shall not be committed to a police station, to a jail or house of correction, to the state farm, or to the house of correction at Deer Island in the city of Boston, pending an examination, in default of bail, or for the non-payment of a fine or upon conviction of any offence not punishable by death or imprisonment for life.

with; and if he does not within the time limited pay the fine imposed, the sheriff shall cause the other part of the sentence to be executed forthwith.

Modification of sentence to fine and imprisonment.

R. S. 139, § 4.  
1855, 215, § 39.  
G. S. 174, § 8.  
1866, 280, § 1.  
P. S. 215, § 8.  
1896, 397, § 17.  
12 Allen, 421,  
424, 428.  
13 Allen, 581.  
109 Mass. 362.  
127 Mass. 452.  
155 Mass. 8.

Sentence to jail, etc., in any county.  
1818, 123, § 6.  
1866, 280, § 2.  
1870, 370, § 4.  
P. S. 215, § 13.  
12 Allen, 424.  
[1 Op. A. G. 309.]

Female sentenced to reformatory prison, when.  
1874, 385, § 17.  
1880, 114, § 1.  
1881, 189.  
P. S. 215, § 14.  
1895, 218.

— to confinement at hard labor, where executed.

1818, 123, § 8.  
1884, 151, § 16.  
R. S. 143, § 18.  
G. S. 174, § 14.  
1874, 385, § 17.  
P. S. 215, § 15.

Woman with infant may be sentenced to town workhouse, etc.

1834, 416, §§ 1, 4.  
G. S. 174, § 12.  
P. S. 215, § 16.

Boy to be sentenced to jail instead of state prison, when.

SECTION 10. Whoever is convicted of a crime which is punishable by fine and imprisonment either in the jail or house of correction, except a registered pharmacist who is convicted under the provisions of section twenty-nine of chapter one hundred, may, at the discretion of the court, be sentenced to be punished by imprisonment only, or by a fine only, if he shows to the satisfaction of the court that he has not before been convicted of a similar crime.

SECTION 14. Whoever is convicted of a crime which is punishable by imprisonment in the jail or house of correction may be sentenced to a jail or house of correction of any county, and the master or keeper thereof shall receive and detain him in the same manner as if he had been sentenced by a court sitting in the county in which such jail or house of correction is situated.

SECTION 15. A female who is convicted of a crime which is punishable by imprisonment in a jail or house of correction may be sentenced to the reformatory prison for women; [but no sentence to said reformatory prison shall be for less than one year, except as provided in section seventy of chapter two hundred and twenty-five].\*

SECTION 16. A sentence of a female convict of whatever age to confinement at hard labor shall be executed in the jail, house of correction or reformatory prison for women as the court orders. 1889, 113. 12 Cush. 237. 1904, 224.

SECTION 17. A woman with a nursing infant, who is convicted of a crime which is punishable by imprisonment in the house of correction, may be sentenced to a workhouse in the county; and two dollars a week shall be paid by the county to the town in which the sentence is executed for her support and custody.

SECTION 18. If a boy who is under the age of sixteen years is convicted of felony and is sentenced to

\* Words in brackets superseded by chapter 209 of the Acts of 1903, page 18.

solitary imprisonment and confinement at hard labor for not more than three years, but has not been previously sentenced to the state prison in this commonwealth, or to any state prison or penitentiary in the United States, the sentence shall be executed in the jail.

SECTION 19. A sentence of a male convict to solitary imprisonment and confinement at hard labor for not more than five years may be executed either in the state prison, jail or house of correction, except as provided in the following section. P. S. 215, § 19. 152 Mass. 1. 161 Mass. 120.

Sentence over five years, how executed.  
1811, 32, § 1.  
1818, 123, § 8.  
1884, 151, § 16.  
R. S. 145, § 18.  
G. S. 174, § 13.  
P. S. 215, § 17.

SECTION 20. If a convict is sentenced to the state prison, except for life or as an habitual criminal, the court shall not fix the term of imprisonment, but shall fix a maximum and a minimum term for which he may be imprisoned. The maximum term shall not be longer than the longest term fixed by law for the punishment of the crime of which he has been convicted, and the minimum term shall not be less than two and one-half years. If a convict who has been sentenced to the state prison receives an additional sentence thereto, it shall take effect upon the expiration of the minimum term of the preceding sentence.

Indeterminate sentence.  
R. S. 139, § 9.  
G. S. 174, § 17.  
1877, 190.  
1880, 15, § 1.  
P. S. 215, § 20.  
1895, 504, § 1.  
1897, 294, § 1.  
152 Mass. 1.  
167 Mass. 144.  
169 Mass. 592.  
172 Mass. 264.  
174 Mass. 369.  
177 U. S. 155.

SECTION 21. Whoever has been twice convicted of crime and has been sentenced and committed to prison in this or another state, or once in this and once or more in another state, for terms of not less than three years each, and does not show that he has been pardoned for either crime on the ground that he was innocent, shall, upon conviction of a felony in this commonwealth, be considered an habitual criminal and be punished by imprisonment in the state prison for *the maximum term provided by law as a penalty for the felony for which he is then to be sentenced*.

Habitual criminals.  
1887, 435, § 1.  
155 Mass. 163.  
156 Mass. 595.  
163 Mass. 226.  
165 Mass. 135.  
173 Mass. 322.  
175 Mass. 202.  
180 U. S. 311.

Amended.  
1904, 303.

SECTION 22. A convict who is under sentence of imprisonment in the state prison may be sentenced for a further time of not less than one year.

Further sentence of convict in state prison.  
1880, 15, § 2.  
P. S. 215, § 21.

Sentence to  
state prison  
may be exe-  
cuted immedi-  
ately.  
1881, 139.  
P. S. 215, § 22.

SECTION 23. If a convict who is serving a sentence of imprisonment in a jail or house of correction is convicted of a felony, the court may impose sentence of imprisonment in the state prison and order it to take effect forthwith, notwithstanding the former sentence. The convict shall thereupon be removed to the state prison, and shall be discharged at the expiration of his sentence thereto.

Same subject.  
1891, 200.

SECTION 24. If a convict who is serving a sentence of imprisonment in the Massachusetts reformatory is convicted of a crime which is punishable by imprisonment in the state prison or house of correction, the court may impose sentence of imprisonment therein and may order it to take effect forthwith, notwithstanding the former sentence. The convict shall thereupon be removed accordingly, and shall be discharged at the expiration of his sentence thereto.

Form of sen-  
tence. Solitary  
imprisonment.  
R. S. 189, § 8.  
G. S. 174, § 18.  
1866, 254.  
P. S. 215, § 23.  
4 Met. 361.  
8 Met. 533.  
11 Met. 576.  
161 Mass. 120.  
167 Mass. 11.

SECTION 25. The form of a sentence to the state prison shall be, that the convict be punished by confinement at hard labor and by solitary imprisonment for such term, not exceeding twenty days at one time, as the court orders. In the execution of such sentence, the solitary imprisonment shall precede the punishment by hard labor, unless the court otherwise orders; but in case of severe illness of the convict, the warden, upon the certificate of the physician of the prison, may postpone the solitary imprisonment until the health of the convict is so far restored that his life will not be endangered by such solitary imprisonment.

Offices for-  
felled by sen-  
tence to state  
prison.  
R. S. 144, § 31.  
G. S. 174, § 19.  
P. S. 215, § 24.  
24 Pick. 279.

SECTION 26. If a convict who is sentenced by a court of this commonwealth or of the United States to imprisonment in the state prison holds an office under the constitution or laws of this commonwealth at the time of his conviction and sentence, it shall be vacated from the time of his sentence. If the judgment against him is reversed upon writ of error, he shall be restored to his office with all its rights and emoluments; but, if pardoned,

he shall not by reason thereof be restored, unless it is so expressly ordered by the terms of the pardon.

SECTION 27. A male person under forty years of age who has not been previously sentenced for crime more than three times upon conviction of crime and who is convicted of a crime which is punishable by imprisonment in the state prison or in a jail or house of correction may be sentenced to the Massachusetts reformatory. Police, district and municipal courts and trial justices shall have the same jurisdiction to sentence such person to said reformatory as they have to sentence him to such jail or house of correction.

Persons punishable in reformatory.  
1884, 255, § 8.  
1885, 356.  
1886, 323, § 5.  
1888, 49.

SECTION 28. The court which imposes sentence of imprisonment in the reformatory shall not fix the term thereof unless it exceeds five years, but shall merely impose a sentence of imprisonment in the reformatory; but prisoners may be received and held therein who have been sentenced thereto by a court of the United States for a fixed or limited term.

Indeterminate sentence.  
1884, 255, §§ 8, 9.  
1886, 323, §§ 1, 6.

SECTION 29. Whoever is sentenced to imprisonment in the reformatory for felony may be held therein for not more than five years unless he is sentenced for a longer term, in which case he may be held for such longer term. Whoever is sentenced to imprisonment therein for a misdemeanor may be held therein for not more than two years.

Length of sentences.  
1886, 323, §§ 2, 3.  
1892, 302.

SECTION 30. When a convict is sentenced to pay a fine or to be imprisoned, the clerk of the court shall forthwith make out and deliver to the sheriff or to some other officer in court a duly certified transcript from the minutes of the court of the conviction and sentence, which shall authorize the officer to execute such sentence, and he shall execute it accordingly.

Sheriff, etc., to execute sentences.  
R. S. 139, § 7.  
G. S. 174, § 20.  
1880, 120, § 1.  
P. S. 215, § 25.

SECTION 31. When a person is sentenced to the state prison, to the Massachusetts reformatory or to the reformatory prison for women, the clerk of the court shall, without charge, transmit to the warden or superintendent,

Copy of indictment, etc., to be transmitted to warden, etc.  
1881, 114.  
P. S. 215, § 28.  
1884, 255, § 10.

as the case may be, an attested copy of the complaint or indictment under which such person was convicted and the names of the witnesses who testified for and against such person at the trial.

Powers of officer in execution of a warrant of commitment.  
1870, 370, § 5.  
1879, 294, § 7.  
1880, 120, § 3.  
P. S. 215, § 27.

SECTION 32. A sheriff, deputy sheriff or constable, when engaged in the execution of a warrant for the commitment of a person to a penal institution which is not in his own county, shall have the same powers in any county through which he may pass as he would have in his own county in the performance of a similar duty.

Return of precept to magistrate; copy with jailer, etc.  
1869, 233.  
G. S. 174, § 22.  
1880, 120, § 2.  
P. S. 215, § 28.  
H Gray, 468.

SECTION 33. The officer who serves the precept in a criminal case shall, without charging travel therefor, return it with his doings and fees indorsed thereon to the court or magistrate issuing it, who shall tax, allow and certify the fees as a part of the expenses in the case. In case of commitment, the officer shall leave with the jailer or keeper of the prison an attested copy of the precept, with his return thereon, which shall authorize the detention of the person committed.

Service of new mittimus upon convict.  
G. S. 174, § 23.  
P. S. 215, § 29.

SECTION 34. If a convict who is imprisoned under sentence is again sentenced to confinement in a prison other than that in which he is then held, the warrant for his commitment in pursuance of the second sentence shall be placed in the hands of the warden or keeper of the prison in which the convict is held, and said warden or keeper, upon the expiration of the first sentence, shall commit the convict in obedience to said warrant.

Appointment of time for execution of death sentence.  
C. L. 30, § 1.  
1776-7, 32, § 24.  
R. S. 139, § 11.  
1832, 274, §§ 2, 3.  
1837, 37.  
G. S. 174, § 24.  
1876, 166, § 1.  
P. S. 215, § 32.  
1898, 326, § 1.

SECTION 37. In pronouncing sentence of death upon a person who is convicted of a capital crime, the court shall appoint a week within which the sentence shall be executed. The clerk of the court shall, as soon as may be, make out and deliver to the governor a certified copy of the whole record of the conviction and sentence, and shall immediately thereafter make out, sign and deliver to the sheriff of the county in which the conviction was had a warrant under the seal of the court stating the conviction and sentence, and the week appointed for the ex-

ecution thereof, and shall at the same time transmit to the warden of the state prison a certified copy of the warrant. Such warrant shall be directed to the warden of the state prison commanding him to cause execution to be done in accordance with the provisions of such sentence upon a day within the week so appointed.

SECTION 38. After a convict has been sentenced to the punishment of death, he shall be confined in jail in the county in which he was convicted until within ten days of the first day of the week appointed for the execution of the sentence of death. He shall, within such ten days, at a time chosen by the sheriff, be conveyed by him or a deputy designated by him, as secretly as may be, to the state prison, and shall, with the warrant, be delivered to the warden thereof or to the officer performing the duties thereof. He shall, unless lawfully discharged from such imprisonment, be kept in a cell provided for the purpose from the time of such delivery until the sentence of death is executed upon him, and no person shall be allowed access to him without an order of the court, except the officers and employees of the prison, his counsel, and such physicians, priest or minister of religion as the warden may approve, and the members of his family who are identified to the satisfaction of the warden. If the execution of the sentence of death is respited by the governor, or is otherwise delayed by process of law, the convict may, in the discretion of the warden, be confined in one of the cells in the solitary prison established by chapter one hundred and nine of the resolves of the year eighteen hundred and ninety-four.

SECTION 39. The sentence of death shall be executed by the warden of the state prison, or by a person acting under his direction, within the week appointed by the court, unless the governor pardons the crime, commutes the punishment therefor or respites the execution. If the execution is respited, the sentence of death shall be

Confinement  
of prisoner  
under sen-  
tence.  
1898, 326, § 2.  
1901, 520.

Sentence,  
when execu-  
ted.  
1776-7, 32, § 24.  
R. S. 139, §§ 11,  
12.  
G. S. 174, §§ 24,  
25.  
1876, 166, § 2.  
P. S. 215, § 33.  
1898, 326, § 3.



executed within the week beginning on the day next after the day on which the term of respite expires. The sentence of death shall be executed upon such day within the week appointed as the warden elects, at some time between midnight and sunrise; but no previous announcement thereof shall be made, except to such persons as may be permitted to be present.

Death penalty,  
how inflicted.  
R. S. 139, § 13.  
1853, 286, § 2.  
1857, 37.  
G. S. 174, § 26.  
P. S. 215, § 37.  
1898, 326, §§ 4,  
6, 10.  
5 Cush. 407.  
11 Cush. 604.

SECTION 40. The punishment of death shall be inflicted by causing a current of electricity of sufficient intensity to cause death to pass through the body of the convict, and the application of such current shall be continuous until he is dead. The sentence shall be executed within an enclosure or building for that purpose adjoining the state prison and the company which furnishes the electric power or light to the state prison shall provide all necessary electricity for executions at such times as the warden orders.

Insane person,  
or woman  
quick with  
child, not to be  
sentenced.  
1876, 166, § 3.  
P. S. 215, § 34.

SECTION 41. If a person who is convicted of a capital crime is, at the time when motion for sentence is made, found by the court to be insane, it may cause such person to be removed to one of the state insane hospitals for such term and under such limitations as it may order. If a woman who is convicted of a capital crime is, at the time when motion for sentence is made, found by the court to be quick with child, the court shall not pass sentence upon her until it finds that she is no longer quick with child.

Respite of  
execution in  
such cases.  
R. S. 139, § 12.  
G. S. 174, § 25.  
1876, 166, § 4.  
P. S. 215, § 35.

SECTION 42. If it appears to the satisfaction of the governor and council that a convict under sentence of death has become insane, the governor, with the advice and consent of the council, may, from time to time for stated periods, respite the execution of said sentence, until it appears to their satisfaction that the convict is no longer insane. If it appears to the satisfaction of the governor and council that a female convict under sentence of death is quick with child, the governor, with the advice and consent of the council, shall from time to time respite

the execution of said sentence for stated periods until it appears to their satisfaction that she is no longer quick with child.

SECTION 43. The governor, with the advice and consent of the council, may from time to time respite the execution of a sentence of death for stated periods so long as he may consider it necessary to afford him, with the advice and consent of the council, an opportunity to pardon the convict and to investigate and consider the facts of the case for that purpose.

Respite of execution in other cases.  
1876, 166, § 5.  
P. S. 215, § 36.

SECTION 44. There shall be present at the execution of the sentence of death, in addition to the warden or deputy warden who performs the execution and such officers of the state prison as he considers necessary, the prison physician, the surgeon general of the militia, a medical examiner for the county of Suffolk, or, if they are unable to be present, such physicians as the warden approves. The physicians present shall be the legal witnesses of the execution. There may also be present the sheriff of the county in which the defendant was convicted or his deputy, a priest or minister of religion and, with the approval of the warden, not more than three other persons.

Witnesses of the execution.  
R. S. 139, § 14.  
G. S. 174, § 27.  
P. S. 215, § 38.  
1898, 326, § 5.

SECTION 45. When the warden has executed the sentence of death upon a convict in obedience to a warrant from the court, he shall forthwith make return thereof under his hand, with the doings thereon, to the office of the clerk of said court.

Return of warrant.  
R. S. 139, § 15.  
G. S. 174, § 28.  
1876, 166, § 6.  
P. S. 215, § 39.  
1898, 326, § 7.

## CHAPTER 221.

### OF FINES AND FORFEITURES.

SECTION 6. Before imposing a fine as a penalty or part penalty for a crime, the court or justice shall determine the reasonable and actual expenses of the prosecution, including the services of officers and witnesses, the detention and support of the defendant and the expense of serving a mittimus or other warrant of commitment;

Expenses of prosecution.  
1890, 328, § 1;  
440, § 3.

and may impose a fine, not exceeding the maximum fine prescribed for the crime, which shall include the whole or any part of the amount of the expenses so found and determined. If the presiding justice is of opinion that the maximum fine is an inadequate penalty for the crime committed, he may impose such maximum fine and order the defendant to pay the whole or any part of the expenses of the prosecution. Defendants who pay such expenses after commitment shall also pay the expense of commitment.

Accounts of  
fines, etc.  
1891, 236, § 1.

SECTION 8. The clerk of the superior court for the transaction of criminal business for the county of Suffolk, the clerks of the municipal courts in Boston, the sheriff, master of the house of correction or other officer, except those named in the following section,\* upon receiving fines, fees or other money in any criminal proceedings, which are to be paid to the county of Suffolk or to the city of Boston, shall, before the tenth day of every month, pay over to the collector of said city and account, under oath, for all fines, fees or other money so received during the preceding calendar month, and make the detailed statements now required by law.

Fines, etc., to  
be paid to  
sheriff, and by  
him to county.  
1693-4, 2, § 1.  
1791, 53, § 2.  
R. S. 141, § 9.  
1857, 107, § 1.  
G. S. 176, §§ 9,  
12.  
1881, 52, § 1.  
P. S. 217, §§ 9,  
12.  
1890, 218, § 1.  
2 Gray, 428.

SECTION 11. Fines and forfeitures imposed in criminal prosecutions by the superior court to the use of the commonwealth, or to any county, or to the city of Boston, and all amounts found to be due on forfeited recognizances, shall, under the direction of the court, be certified by the clerk to the sheriff. The sheriff or a deputy sheriff shall be authorized to receive such fines and forfeitures, but the sheriff shall, within ten days after the final adjournment of the sitting of the court, pay the same without deduction to the county treasurer and render to him, or, in the county of Suffolk, to the collector of the city of Boston, an account, under oath, of all amounts which he has received since the last preceding sitting of the court for fines, forfeitures and forfeited

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\* Section 9 refers to clerks of courts.

recognizances and the names of the persons from whom they were received and against whom they were awarded. If a sheriff neglects for thirty days to render such account he shall be liable to a penalty of two hundred dollars, which shall be recovered in the manner provided in section thirteen.

SECTION 12. A sheriff who, having a person in his custody by virtue of the sentence of a court, voluntarily or negligently suffers him to escape shall be held to have received the fines, forfeitures or forfeited recognizances described in the preceding section, at the time of the escape, and shall be liable for the same, with interest and costs, as if he had received them.

Sheriff suffering escape to pay fines, etc.  
1791, 53, § 3.  
R. S. 141, § 9.  
1857, 107, § 1.  
G. S. 176, § 10.  
P. S. 217, § 10.

SECTION 13. If a sheriff neglects to make such payment for thirty days, the county treasurer shall recover of him in an action of contract the amount of such fines, forfeitures and forfeited recognizances, with interest at the rate of twelve per cent from the time of receiving or from the time he is held to have received the same and costs.

Remedy if sheriff neglects to pay over fines.  
1791, 53, § 3.  
R. S. 141, § 9.  
1857, 107, § 1.  
G. S. 176, § 11.  
P. S. 217, § 11.

SECTION 14. A person who is committed to a jail or house of correction in default of payment of a fine may pay it to the keeper of the jail or master of the house of correction, and the warrant for his commitment shall designate the city or town in which the offence for which the fine was imposed was committed and the uses to which such fine is payable by the officer who receives it.

Payments to jailer or master of house of correction.  
1881, 52, § 1.  
P. S. 217, § 14.  
1891, 416, § 2.

SECTION 15. Every keeper of a jail and master of a house of correction shall, except in the county of Suffolk as provided in section eight, on the first day of January, April, July and October, pay over to the persons who are entitled thereto all money received by him under the provisions of the preceding section during the preceding three months, and render to the county treasurer an account, under oath, showing the names of the prisoners by whom payments have been so made, the court by which each was committed and the amount received from each.

Jailer and master of house of correction to make quarterly returns.  
1881, 52, § 2.  
P. S. 217, § 15.  
1891, 416, § 3.

(Acts of 1903, Chap. 320.)

## OF PUBLIC SERVICE CORPORATIONS AND THEIR EMPLOYEES.

Employment,  
etc., of per-  
sons by public  
service corpo-  
rations  
restricted.  
1903, 320, § 1.

SECTION 1. No railroad, street railway, electric light, gas, telegraph, telephone, water or steamboat company shall appoint, promote, reinstate, suspend or discharge any person employed or seeking employment by any such company at the request of the governor, lieutenant governor, or any member or member elect of the council or of the general court, or candidate therefor, justice of the supreme judicial court, justice of the superior court, judge of probate, justice of a police, district or municipal court, district attorney, member or member elect of a board of county commissioners, or candidate for county commissioner, member or member elect of a board of aldermen, or selectmen, or city council, or any executive, administrative or judicial officer, clerk or employee of any branch of the government of the Commonwealth or of any county, city or town; nor shall any such public officer or body, or any member or member elect thereof or candidate therefor, directly or indirectly advocate, oppose, or otherwise interfere in, or make any request, recommendation, endorsement, requirement or certificate relative to, and the same, if made, shall not be required as a condition precedent to, or be in any way regarded or permitted to influence or control, the appointment, promotion, reinstatement or retention of any person employed or seeking employment by any such corporation, and no such person shall solicit, obtain, exhibit, or otherwise make use of any such official request, recommendation, certificate or endorsement in connection with any existing or desired employment by a public service corporation.

Certain offices  
not to be con-  
sidered public  
offices.  
1903, 320, § 2.

SECTION 2. The offices of probation officer, notary public and justice of the peace shall not be considered public offices within the meaning of this act.

SECTION 3. Any person or corporation violating the provisions of this act shall be punished by a fine of not less than fifty dollars nor more than one hundred dollars for each offence.

Penalty.  
1908, 820, § 3.

(Acts of 1904, Chap. 314.)

OF REMOVALS AND SUSPENSIONS FROM OFFICE AND EMPLOYMENT IN THE CLASSIFIED CIVIL SERVICE.

SECTION 1. Every person holding office or employment in the public service of the Commonwealth or in any county, city or town thereof, classified under the civil service rules of the Commonwealth, shall hold such office or employment and shall not be removed therefrom, lowered in rank or compensation, or suspended, or, without his consent, transferred from such office or employment to any other except for just cause and for reasons specifically given in writing.

Persons holding office in the public service not to be removed, etc., without cause.  
1904, 314, § 1.

SECTION 2. The person sought to be removed, suspended, lowered or transferred shall be notified of the proposed action and shall be furnished with a copy of the reasons required to be given by section one, and shall, if he so requests in writing, be given a public hearing, and be allowed to answer the charges preferred against him either personally or by counsel. A copy of such reasons, notice and answer and of the order of removal, suspension or transfer shall be made a matter of public record: *provided, however, that nothing contained in this act shall be construed to prevent temporary suspension for a period not exceeding thirty days, made without compliance with the provisions of this act and pending further action under this act.*

Notice to be given, etc.  
1904, 314, § 2.

Proviso.  
1906, 243.

DIGEST OF DECISIONS  
OF THE  
SUPREME JUDICIAL COURT  
UPON  
MATTERS AFFECTING PRISONS.

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SURRENDER BY BAIL.

The provision that the bail of any person arrested in a civil action, who shall surrender him, "shall within fourteen days after such surrender, deliver to the jailer a copy of the original writ or process whereby the prisoner was arrested," is directory merely, and not a condition precedent. A failure to deliver such copy within fourteen days is not a condition of which the creditor can take advantage to make the surrender invalid and void. *Rhoda Jones v. Samuel J. Varney et als.*, 8 Cushing, 137 (1851).

WARDEN SUMMONED AS TRUSTEE.

The warden of the State Prison, who is removed after being summoned as a trustee, while the action is pending, and before he is charged, cannot be subsequently charged as trustee. The suit must proceed, if at all, against his successor. *Train v. Herrick*, 4 Gray, 534 (1855).

DISCHARGE OF POOR CONVICT.

A common seller of intoxicating liquors, sentenced to imprisonment and payment of fine and costs, is not entitled to be discharged as a poor convict until after three months from the expiration of the time for which he was sentenced to be imprisoned. *Patrick Gannon v. Charles J. Adams*, 8 Gray, 395 (1857).

## ALLOWANCE OF COMPENSATION TO KEEPERS OF PRISONS.

The amount of additional compensation to be allowed to a jailer, upon an appeal from the county commissioners, is within the discretion of the court of common pleas (now superior court), and not subject to revision on exceptions. *Adams v. Hampden*, 13 Gray, 439 (1859).

## PRISON RECORDS.

The keeping of a prison book is not a condition precedent to an allowance by the county commissioners of additional compensation beyond the sum fixed by law as the price of board of prisoners. *Adams v. Hampden*, 13 Gray, 439 (1859).

## COMMUTATION OF SENTENCE FOR GOOD CONDUCT.

A prison officer may lawfully discharge a convict before the expiration of his original sentence in case it appears by the record that such convict is, by reason of good conduct, entitled to the benefit of the statute providing for a reduction of sentence for good behavior. An executive pardon is not necessary in such cases to authorize the discharge of the convict. *Opinion given to Governor and Council*, 13 Gray, 618 (1859).

## THE USE OF JAILS.

The sergeant-at-arms of the Legislature of Massachusetts may lawfully detain in the county jail, with the permission of the sheriff, a prisoner committed by authority of the House of Representatives. *Burnham v. Morrissey*, 14 Gray, 226 (1859).

## SUPPORT OF POOR DEBTOR.

The inhabitants of a county cannot maintain an action of contract against a creditor, who has had his debtor arrested on mesne process and kept in close confinement in the county jail, for board furnished to the debtor by the



jailer upon his claiming support as a pauper, if the creditor, after a demand upon him by the jailer to pay for such board, has not requested the county or the jailer to detain the debtor in prison, or to furnish him with board, nor promised to pay for the debtor's support. *Inhabitants of the County of Worcester v. Barthold Schlesinger*, 16 Gray, 166 (1860).

#### ESCAPE FROM CUSTODY.

An escape by a convicted criminal from the custody of the officer who is conducting him, by virtue of a mittimus, to the place of confinement, is punishable as an offence at common law in this Commonwealth. *Commonwealth v. Thomas Farrell*, 5 Allen, 130 (1862).

#### JAILER'S RECORD AS EVIDENCE.

A jailer's register of prisoners committed to jail for debt, containing his entry of the time and means of their liberation, is not competent evidence to prove the taking of the poor debtor's oath. *Inhabitants of Belchertown v. Inhabitants of Dudley*, 6 Allen, 477 (1863).

#### PREMISES OF COUNTY PRISONS.

An inclosed yard, the sole use of which is in connection with a house of correction, is "adjoining or appurtenant thereto" within the meaning of the Gen. Stats., chap. 178, sect. 6 (corresponding to sect. 8, chap. 224, R. L.); and a prisoner in the house of correction, escaping from such a yard, is liable to punishment under the Gen. Stats., chap. 178, sect. 46 (corresponding to sect. 17, chap. 210, R. L.). *Commonwealth v. Curley*, 101 Mass. 24 (1869).

#### SENTENCE NOT ABATED BY ESCAPE.

The sentence of a convict to imprisonment for a term expressed only by designating the length of time is to be satisfied only by his actual imprisonment for that length

of time, unless remitted by a legal authority; and if a sentence is limited to take effect upon the expiration of a previous sentence, its period will not begin to run until the first sentence has so been fully performed or legally discharged.

If a prisoner under sentence to be imprisoned for a term expressed only by the length of time escapes during the term, the period during which he remains at large does not abridge the period of imprisonment which remains for him to suffer before fully performing the sentence. *Dolan's case*, 101 Mass. 219 (1869).

#### CONVICTION. PROBATION.

Under the statute provision that the conviction of a witness of any crime may be shown to affect his credibility, (Gen. Stats., chap. 131, sect. 13; Stat. 1870, chap. 393, sect. 3,) it has been decided that the term "conviction" is used in a sense including the judgment of the court, and that a plea of guilty, without such final judgment, is not sufficient. *Commonwealth v. Gorham*, 99 Mass. 420. The record offered to impeach the credit of the witness does not show any such judgment, but only that he was discharged on probation. See also *Commonwealth v. Lockwood*, 109 Mass. 323, 330; *Commonwealth v. Dowdican's Bail*, 115 Mass. 133; *Partridge v. Hood*, 120 Mass. 403. *Exceptions overruled. Fay v. Harlan*, 128 Mass. 244 (1880).

#### ESCAPE.

A person, who has been arrested on mesne process, admitted to bail, and afterwards surrendered by his bail to the keeper of a jail, is "lawfully imprisoned," within the provisions of the statutes; and, if he forcibly escapes from the jail, he may be convicted. *Commonwealth v. Alfred R. Barker*, 133 Mass. 399 (1882).

## RETURN FOR VIOLATING CONDITIONS OF PARDON.

The Pub. Stats., chap. 218, sects. 12-14 (now R. L., chap. 225, sects. 132-135), providing that, in any case in which the Governor is authorized by the Constitution to grant a pardon, he may, with the advice of the Council, upon the petition of the person convicted, grant a conditional pardon, and that, where the conditions of the pardon are violated, he shall be arrested, and the Governor and Council shall "examine the case of such convict, and, if it appears by his own admission or by evidence that he has violated the conditions of his pardon, the Governor with the advice of the Council shall order the convict to be remanded and confined for the unexpired term of his sentence," are constitutional; and the Governor and Council may order the convict to be so remanded and confined without notice to him, and without giving him an opportunity to be heard. *Kennedy's case*, 135 Mass. 48 (1883).

## LIBEL UPON PUBLIC OFFICER.

An indictment alleged that the defendant, "contriving and unlawfully and maliciously intending to injure, vilify, and prejudice one S., and to deprive him of his good name, fame, credit, and reputation, and to bring him into great contempt, scandal, infamy, and disgrace, he the said S. being then and there sheriff of the county of W., and also keeper of the jail and house of correction at W., unlawfully and maliciously did publish, and cause and procure to be published, a false, scandalous, malicious, and defamatory libel, containing divers false, scandalous, malicious, and defamatory matters and things of and concerning the said S." *Held*, that the indictment alleged a libel upon S. in his private, and not in his official capacity.

An alleged libel upon a person holding a public office charged him with being "an untruthful man," "a profane man," "a libertine;" with "ruining a young and in-

nocent lady;” with “boasting of the influence of his office, money, and friends being sufficient to crush any one who should attempt to expose him;” and with drawing “a pistol on a virtuous Christian lady, in the presence of men and women, for no cause other than exposing him in a crime which would send him to the State Prison as a criminal.” *Held*, that these charges related to the person named in his private, and not in his official capacity.

A communication, containing charges against the private character of a person holding a public elective office, published more than a year before the occurrence of the next election, although he has not disclaimed his intention to be a candidate for re-election, is not made upon a privileged occasion, and is not *prima facie* privileged.

At the trial of an indictment for libel, in publishing a communication containing charges against the private character of a person holding a public elective office, the good faith of the defendant in making the publication has no tendency to show that it was made upon a privileged occasion; and, if the presiding judge decides that the occasion was not such as to render the publication privileged, he is not required to make any assumption as to the defendant's good faith. *Commonwealth v. Wardwell*, 136 Mass. 164 (1883).

#### TRANSFERS, PERMITS AND REVOCATION OF PERMIT.

A permit to be at liberty may be issued, under the Stat. 1884, chap. 255, sect. 33 (R. L., chap. 225, sect. 117), to such a prisoner, as he has no vested rights, under the Pub. Stats., chap. 222, sect. 20 (R. L., chap. 225, sect. 113), relating to deductions from terms of imprisonment for good conduct; and such a permit need not set forth in terms that it was issued with the approval of the Governor and Council, and is revocable at any time by the issuing board, in its discretion, without cause shown.

A direction by the Board of Prison Commissioners to their secretary, to issue an order for the removal of a pris-

oner, as well as for his rearrest upon the revocation of such a permit, involves no delegation of authority to the secretary; and such an order requires no seal.

A prisoner availing himself of such a permit takes it subject to the liability, in case of its revocation and his rearrest, of being held under his original sentence, subject to the provisions of the Stat. 1884, chap. 255, sect. 34 (R. L., chap. 225, sect. 129), that, "in computing the period of his confinement the time between his release upon said permit and his return to the reformatory shall not be taken to be any part of the term of the sentence." *Conlon's case*, 148 Mass. 168 (1889).

#### HABITUAL CRIMINAL ACT.

The statute relates to the judgment to be rendered and the sentence to be imposed in cases arising after it goes into effect. It is prospective and not retrospective. It deals with offenders for offences committed after its passage, but it provides that, in considering the nature of an offence and the condition into which the offender is brought by it, his previous conduct may be regarded. The meaning of the statute in this particular seems clear, and we have no doubt that it is applicable to the case before us. With this construction it is not unconstitutional as an *ex post facto* law. In punishing offences committed after its passage, it punishes the offenders for a criminal habit whose existence cannot be proved without showing their voluntary criminal act done after they are presumed to have had knowledge of the statute. Such an act is a manifestation of the habit, which tends to establish and confirm it, and for which the wrong-doer may well be held responsible.

That statutes of this kind are constitutional is settled by well-considered adjudications of this court. *Ross's case*, 2 Pick. 165; *Commonwealth v. Phillips*, 11 Pick. 28; *Plumbly v. Commonwealth*, 2 Met. 413; *Commonwealth v. Hughes*, 133 Mass. 496; *Commonwealth v. Marchand*,

*ante*, 8. *Exceptions overruled. Commonwealth v. Graves*, 155 Mass. 163 (1892).

The Stat. 1887, chap. 435 (R. L., chap. 220, sect. 21), entitled "An act to provide for the punishment of habitual criminals," does not violate Articles XXIV. and XXV. of the Declaration of Rights, or Article I., sect. 10, or the Fourteenth Amendment, of the Constitution of the United States, and is not unconstitutional.

The word "prison," as used in the Stat. 1887, chap. 435, sect. 1 (R. L., chap. 220, sect. 21), is not limited to the State Prison, but includes all places of imprisonment for crime.

Merely formal objections to an indictment to avail should be taken at the trial. *Sturtevant v. Commonwealth*, 158 Mass. 598 (1893).

PRISON OFFICERS NOT LIABLE FOR INJURIES SUSTAINED  
BY CONVICTS.

The plaintiff was serving out a sentence at hard labor in the house of correction, duly imposed upon him for a crime of which he had been convicted, and he was injured by having his hand caught in a planing machine which was used in the room in which Jones was superintendent and instructor, and upon which the plaintiff had been set to work. His contention is that he was in the exercise of due care, and that the machine was defective, out of repair, and dangerous; that he was not properly instructed in the use of the machine before he was set to work upon it, and that Jones was an incompetent instructor, as Fisk knew or might have known if he had exercised reasonable care in appointing him. His alleged cause of action against Greene and Fisk is that they were negligent in appointing Jones, and in not providing a suitable machine, and against Jones, that he was negligent in not properly instructing him in the use of the machine.

The report recites: "It was not claimed that either the defendant Greene or the defendant Fisk was present in

said room at the time the injury was received, nor was it claimed that either or any of the said defendants acted or omitted to act in the premises with malice or ill will towards the plaintiff."

The presiding justice ruled that neither defendant was liable, and ordered a verdict for all the defendants; and the question is whether there was any cause of action against any one or more of the defendants.

We are unable to distinguish this case in principle from the decision in *Williams v. Adams*, 3 Allen, 171. The defendants were public officers performing a public service. Their appointment and duties were prescribed by statute. The relation of master and servant, principal and agent, employer and employee, did not exist between them and the prisoners in their custody. These officers were subject to public supervision, but there is nothing in the statutes prescribing the duties and regulating the conduct of these officers towards the prisoners in their charge which implies that the officers are to be held responsible to the prisoners in an action of damages for any neglect in the discharge of their official duties. It is inconsistent with the purpose for which prisons are established, and with the discipline which must be maintained over prisoners, that the officers should be responsible to the prisoners in private actions for mere negligence in the performance of their duties. See *Spear v. Cummings*, 23 Pick. 224; *White v. Phillipston*, 10 Met. 108; *Dwinnells v. Parsons*, 98 Mass. 470; *Learock v. Putnam*, 111 Mass. 499. *Judgment on the verdict. O'Hare v. Jones*, 161 Mass. 391 (1894).

HABITUAL CRIMINAL. MISJOINDER OF COUNTS OF INDICTMENT. REJECTION OF UNNECESSARY WORDS AS SURPLUSAGE. PAROL EVIDENCE.

A motion to quash an indictment on the ground that it should not contain allegations of former convictions and sentences of the defendant, with a view to proving that he was an habitual criminal, is rightly overruled, as such al-

legations, under Stat. 1887, chap. 435, sect. 1 (R. L., chap. 220, sect. 21), are not only proper, but necessary.

A motion to quash an indictment on the ground of a misjoinder of counts is rightly overruled if it is obvious that the indictment was intended to charge the defendant in one count with the crime of breaking and entering a building with intent to commit the crime of larceny therein, and with having been twice convicted of crime, sentenced, and committed to prison for terms of not less than three years each, and to charge him in another count with an attempt to commit the same crime, and with having been in like manner previously convicted of crimes and sentenced; and, the meaning being obvious, unnecessary words may be rejected as surplusage.

At the trial of a criminal case on the question whether or not the defendant was married, an officer at the State Prison at the time when the defendant was said to have been committed, four years before, testified that it was his duty to ask the prisoners certain questions when they entered the prison, and to keep a record of the answers, and that the defendant said, in answer to a question whether he was married, that he was not married. The defendant objected to the admission of the evidence, on the ground that the record should be produced. *Held*, that the entries did not constitute such a record as precluded parol evidence of the facts stated in them. *Commonwealth v. Walker*, 163 Mass. 226 (1895).

FALSE IMPRISONMENT. ERROR IN COPY OF MITTIMUS.

The keeper of a workhouse is not liable in an action for false imprisonment of a person for a period which exceeds the term for which he was sentenced in consequence of an error in the copy of the mittimus, if the keeper had no reason to think the copy erroneous, and there was no negligence on his part in failing to ascertain the existence of the error. *Martin v. Collins*, 165 Mass. 256 (1896).



## ERROR IN SENTENCE. HABEAS CORPUS. WRIT OF ERROR.

Where there is error in a sentence in that it did not include solitary imprisonment, the remedy is by writ of error, and not by petition for a writ of *habeas corpus*.

HOLMES, J. We assume, as contended for the petitioner, that there was error in his sentence because it did not include solitary imprisonment. *Lane v. Commonwealth*, 161 Mass. 120, 122. But on a writ of error this could be corrected. Pub. Stats., chap. 187, sect. 13. *Jacquins v. Commonwealth*, 9 Cush. 279; *Sennott's case*, 146 Mass. 489, 494. The case is not like *Ex parte Lange*, 18 Wall. 163, where the petitioner was liable only to fine or imprisonment, but was sentenced to both, had been imprisoned, and had paid his fine. In that case it was held that the court had no jurisdiction to impose a new sentence of imprisonment. See also *Feeley's case*, 12 Cush. 598, 600. But in the case at bar the prisoner's sentence is correct as far as it goes, he has suffered nothing that is not consistent with the further penalty which he says ought to be imposed upon him, and there is nothing to hinder that being added before his term expires. It is true that, by Pub. Stats., chap. 215, sect. 23 (R. L., chap. 220, sect. 25), "in the execution of such sentence, the solitary imprisonment shall precede the punishment by hard labor, unless the court otherwise orders," but that can be met, if necessary, by an order in the amended sentence.

Manifestly, it would be an absurd result if the petitioner could get his discharge on *habeas corpus* when he could not get it by a regular proceeding to reverse his sentence. But whether the sentence could be corrected or could not be, the rule which has been approved by this court denies relief by *habeas corpus* when the court has jurisdiction to sentence the petitioner and errs simply in regard to the extent of the punishment. *Sennott's case*, 146 Mass. 489, 492, 493; *Feeley's case*, 12 Cush. 598, 599. See *Ex parte Bigelow*, 113 U. S. 328; *In re Belt*, 159 U. S. 95. *Morehouse Stalker, petitioner*, 167 Mass. 11 (1896).

WRIT OF ERROR. VALIDITY OF SENTENCE. UNCONSTITUTIONALITY OF EX POST FACTO LAW. STATUTE.

On a petition for a writ of error to reverse a sentence of the superior court, by which the petitioner was confined in the State Prison, it appeared that the offences of which he was convicted were committed between July 19, 1892, and Nov. 17, 1893, but that he was sentenced on May 28, 1896, under Stat. 1895, chap. 504, entitled "An Act relative to sentences to the State Prison," which took effect on Jan. 1, 1896. As the law stood when the offence was committed, the petitioner was entitled to a deduction for good behavior, and to a permit to be at liberty for the time thus deducted on such terms as the Prison Commissioners should fix and subject to revocation by them. *Held*, that, as to the petitioner, the statute of 1895 was void as an *ex post facto* law, and that the case must be remanded to the superior court for sentence, according to the law as it was before the passage of the statute. *Murphy v. Commonwealth*, 172 Mass. 264 (1899).

CONSTITUTIONAL LAW. EQUAL PROTECTION OF THE LAW. EX POST FACTO LAW. CRUEL AND UNUSUAL PUNISHMENT. INDICTMENT. PLEADING. COUNSEL FOR PRISONER. HABITUAL CRIMINAL ACT.

The Stat. 1887, chap. 435 (R. L., chap. 220, sect. 21), relative to the punishment of habitual criminals, is not an *ex post facto* law, it does not deprive a person sentenced under it of the equal protection of the laws in violation of Article XIV. of the Amendments to the Constitution of the United States, nor is the provision thereof that a person on trial on a charge of felony may be shown to have twice before been convicted of crimes committed in this or another State, or both, unconstitutional as denying to him a fair and impartial trial.

Although it is necessary in order to sentence a person as an habitual criminal under the Stat. 1887, chap. 435,

to allege and prove that he has twice before been convicted of crime, the previous convictions do not of themselves constitute a crime, and if in the indictment words importing the beginning of a new count precede the allegation of previous convictions they may be rejected as surplusage.

Article VI. of the Amendments to the Constitution of the United States does not apply to States or to proceedings in State courts, and there is no constitutional or statutory provision in this Commonwealth guaranteeing counsel to a prisoner unless he is charged with a capital crime.

A person may be lawfully sentenced as an habitual criminal under the Stat. 1887, chap. 435, although unrepresented by counsel at his trial, when it appears that his rights were then carefully guarded and stated and explained to him.

The Stat. 1887, chap. 435, providing for the punishment of habitual criminals, does not impose a cruel and unusual punishment within the meaning of Article VIII. of the Amendments to the Constitution of the United States, which does not apply to States, nor is the statute in violation of Article XXVI. of the Declaration of Rights, which is directed to courts and not to the Legislature.

At the trial of an indictment which contained counts for forging and uttering certain checks, and an allegation that the defendant was an habitual criminal, the judge charged the jury, they retired, and afterward came into court to render their verdict. In response to inquiries of the clerk, they returned a verdict of guilty upon each count, and when the clerk was about to inquire of them in regard to the habitual criminal charge the judge arose and said that he had forgotten to charge upon that, and proceeded so to do, after which the jury again retired, returned into court, and rendered a verdict of guilty upon that part of the indictment. *Held*, that this procedure was not unconstitutional or prejudicial to the defendant.

Under an assignment of error, if it may be called such, in a writ of error, that the prisoner waives no rights

either under the Constitution of the United States or of this Commonwealth apparent on the records, but not stated in detail in the assignments of errors, no error is alleged; and there is nothing for this court to consider. *McDonald v. Commonwealth*, 173 Mass. 322 (1899).

MODIFYING ORIGINAL SENTENCE. IMPOSING SENTENCE AT  
A SITTING OF THE COURT FOR CIVIL BUSINESS.

On Dec. 3, 1897, a person, having been found guilty of obtaining property by false pretences on Oct. 31, 1894, was immediately sentenced to imprisonment in the State Prison for not less than three or more than five years. After announcing the sentence the clerk said, "Mr. Sheriff, the prisoner at the bar is in your custody under sentence." Exceptions having been taken, the judge soon after, at the defendant's request, made an order staying the execution of the sentence, and the prisoner, who had remained in the court-room with the sheriff, was admitted to bail. No transcript under Pub. Stats., chap. 215, sect. 25 (R. L., chap. 220, sect. 30), was ever delivered or made out. The exceptions, having been argued in this court in October, 1898, were overruled in November, 1898. On the receipt of the rescript the defendant was not present in the superior court and was defaulted. A *capias* was issued, on which he was arrested and brought before the court on Jan. 16, 1899, at a regular sitting for the transaction of civil business, the district attorney moving that such sentence should be imposed as would be applicable, having informed the judge that the original sentence was under Stat. 1895, chap. 504 (R. L., chap. 220, sect. 20), which had been held by this court inapplicable to offences committed before Jan. 1, 1896. The judge, against the defendant's objection and subject to his exception, sentenced him to a term of three years in the State Prison, the first day of which was to be in solitary confinement, and the balance at hard labor. *Held*, that the judge had the power to modify the original sentence and make it conform to

the law, and that the objections that the sentence could not be imposed at a sitting of the court for the transaction of civil business, and that the judge was engaged in the transaction of civil business a little before and a little after imposing it, could not avail. *Commonwealth v. O'Brien*, 175 Mass. 37 (1899).

INDICTMENT. EXCEPTIONS. HABITUAL CRIMINAL. CONTINUOUS IMPRISONMENT UNDER PREVIOUS COMMITMENTS.

Exceptions to the refusal to give rulings requested, which relate to the duty of the jury upon all the evidence, will be overruled, if the bill of exceptions states no evidence.

It is no objection to the sufficiency of an indictment under the habitual criminal act, Stat. 1887, chap. 435 (R. L., chap. 220, sect. 21), that the sentence imposed upon the second previous conviction alleged in the indictment took effect from the expiration of the sentence imposed upon the first previous conviction alleged, so that there was no interval of liberty between the two terms of imprisonment. *Commonwealth v. Richardson*, 175 Mass. 202 (1900).

ILLEGAL SENTENCE.

Where a prisoner was sentenced for a period longer than authorized by the statute under which he was indicted, the sentence was reversed on writ of error, and the case remanded to the superior court for sentence by that court according to law. *Smith v. Commonwealth*, 178 Mass. 340 (1901).

DEATH PENALTY.

Whether the provision of the Massachusetts Declaration of Rights that "No magistrate or court of law shall . . . inflict cruel or unusual punishments" applies to punishments provided by statutory enactment, also, whether the prohibition extends to punishments which are unusual but not cruel, *quære*.

Stat. 1898, chap. 326, sect. 6 (R. L., chap. 220, sect. 40), providing that the punishment of death shall be inflicted

by causing a current of electricity to pass through the body of the convict, does not inflict a cruel or unusual punishment within the meaning of Article XXVI. of the Massachusetts Declaration of Rights. The punishment is death; and the adoption of new means, for the purpose of producing death as swiftly and painlessly as possible, is not forbidden by the Constitution, although the means adopted be the result of discoveries of recent science not previously known in Massachusetts.

The provision of Stat. 1898, chap. 326, sect. 2 (R. L., chap. 220, sect. 38), that after delivery to the warden of the State Prison of a convict sentenced to death, the prisoner shall be kept in a special cell and only certain persons allowed access to him without an order of court, does not and is not intended to prevent the presence of the prisoner in court in any matter which properly may be brought up in court and which by the course of law or treaty requires his presence.

The provision of Stat. 1898, chap. 326, sect. 3 (R. L., chap. 220, sect. 39), leaving it to the warden of the State Prison to select the day within the week appointed by the court on which a prisoner sentenced to death shall be executed, was not intended to aggravate the prisoner's distress by enhancing his suspense, and does not inflict a punishment. The purpose is humane, and the possible uncertainty for a brief period as to the exact time of execution is not a part of the punishment. *Storti v. Commonwealth*, 178 Mass. 549 (1901).

#### CONSTITUTIONAL LAW. EX POST FACTO LAWS.

On a petition for a writ of *habeas corpus*, it appeared, that the petitioner had been sentenced to death and had been committed to the warden of the State Prison under Stat. 1898, chap. 326 (R. L., chap. 220, sect. 38), which required, that from the time of delivery to the warden until his execution or discharge a convict under sentence of death should be kept in a cell provided for the purpose,

and that no person should be allowed access to him without an order of the court, except the officers of the prison, his counsel, his physician, a priest or minister of religion, if he should desire one, and the members of his family. This was amended by Stat. 1901, chap. 520, sect. 1 (R. L., chap. 220, sect. 38), so as to read: "except the officers and employees of the prison, his counsel, and such physicians, priest or minister of religion as the warden may approve, and the members of his family, who are identified to the satisfaction of the warden," and then was added: "If the execution of the death sentence is respited by the governor, or otherwise delayed by process of law, the convict may, in the discretion of the warden, be confined in one of the cells in the solitary prison established by" Res. 1894, chap. 109. It was contended that the warden had no authority to hold the petitioner in custody except under Stat. 1901, chap. 520, and that as against the petitioner that statute was unconstitutional and void as *ex post facto*. *Held*, that no rights were conferred upon the prisoner by the statute of 1898, which related to matters of prison discipline, containing merely restrictions on the warden and directions for keeping the prisoner until execution, and that the persons mentioned as possibly having access to him were mentioned only by way of exception to the general exclusion of all others, the excepted persons remaining subject to Pub. Stats., chap. 221, sects. 33-35, requiring a permit and authorizing the warden to exclude any one "when it appears that such admission would be injurious to the best interests of the prison"; moreover, that no change was made by the statute of 1901 in the persons who might be allowed access to the prisoner; and that the statute of 1898 more clearly than that of 1901 permitted solitary confinement; and that, if all the foregoing propositions were otherwise, it would not follow that the petitioner should be discharged, as the mode of confinement is no part of the punishment. *Storti's case*, 180 Mass. 57 (1901).

## PROBATION. PRACTICE, CRIMINAL, EXCEPTIONS.

Although R. L., chap. 217, sect. 84, requires that a person released on probation shall be furnished by the probation officer with a written statement of the terms and conditions of his release, and although a probation officer who is surety on the recognizance of a defendant, when informed by a third person that the defendant has broken the terms of his probation, should make an investigation to determine whether the information is correct before surrendering the defendant to the court, yet if the probation officer without having done either of these things surrenders the defendant to the court where his case is pending, it is within the discretion of that court to determine whether the defendant has violated the terms of his recognizance or of the oral arrangement between him and the Commonwealth and whether the probation officer, as his surety, was justified in surrendering him into court, as well as whether the defendant's conduct has been such that sentence should be imposed under R. L., chap. 220, sect. 2. *Commonwealth v. McGovern*, 183 Mass. 238 (1903).



ABSTRACT  
OF THE  
OPINIONS OF THE ATTORNEY-GENERAL.

---

TRANSFER OF PRISONER WHOSE PERMIT TO BE AT LIBERTY  
HAS BEEN REVOKED.

Under date of June 21, 1888, the attorney-general in reply to the question: "Have the Commissioners of Prisons (now Prison Commissioners) the right when a permit to be at liberty from the Massachusetts Reformatory is revoked, to order a transfer of the prisoner to a jail or house of correction, without a re-commitment to the Reformatory?" gave an opinion that: "When a permit to be at large has been revoked the prisoner is practically remanded to the former status under the sentence and mittimus, and is subject to such transfers as he was subject to prior to his release."

TRANSFER OF PRISONERS WITHOUT COMMITMENT.

In reply to a question as to the transfer of a prisoner, the attorney-general sent the following communication under date of Dec. 12, 1888. "I have the honor to reply to yours of the 26th ult. asking if a prisoner now serving a six months' sentence in the House of Industry, and while serving said sentence, has been convicted and sentenced to eighteen months' imprisonment in the House of Correction, the last sentence to take effect at the expiration of the first, can be transferred by the Commissioners of Prisons (now Prison Commissioners) to the Massachusetts Reformatory to serve the House of Correction sentence, without being committed to the House of Correction. I

am of the opinion that such prisoner cannot be transferred till he is actually committed to the House of Correction in the execution of the sentence thereto."

PRISONER. COMMUTATION OF SENTENCE.

Pub. Stats., chap. 222, sect. 20 (R. L., chap. 225, sect. 113), authorizes the commutation of the sentence of a prisoner sentenced for different terms in different institutions on the basis of the aggregate of the sentences.

In compliance with the request of Your Excellency and the Honorable Council for my opinion upon the questions submitted in the vote of April 15, I have the honor to say that in my opinion the sentence of a prisoner in a house of correction, who is, upon the expiration of the sentence he is then serving, to be committed to another institution to serve an additional sentence, can be commuted upon the basis of the aggregate of the sentences; and that the same is true of a sentence to a house of correction awarded by the court to take effect on and after the expiration of a previous sentence to another institution. The language of Pub. Stats., chap. 222, sect. 20, is broad enough to include the case of sentences to different institutions; and the reason of the statute seems to apply with as much force to that case as to the case of several sentences to the same institution; and the history of the legislation on the subject indicates that the provision was intended to apply to both. — *Op. Atty.-Gen.*, I., 9 (1891).

HOURS OF LABOR IN STATE INSTITUTIONS. TEACHERS. LABORERS, WORKMEN AND MECHANICS.

Stat. 1890, chap. 375 (R. L., chap. 106, sect. 19), does not prohibit the employment of labor in State institutions for more than nine hours a day, if such labor is contracted for and paid for by the hour.

A teacher is neither a laborer, workman nor mechanic, within the meaning of the statute.

The words "laborers, workmen and mechanics" are used in a technical and restricted sense in the statute, and do not apply to persons having powers and duties of an official character, distinct from ordinary employment or service. — *Op. Atty.-Gen.*, I., 10 (1891).

REGISTRATION OF CRIMINALS. BERTILLON SYSTEM OF MEASUREMENT. UNITED STATES PRISONERS.

Stat. 1890, chap. 316 (R. L., chap. 225, sect. 18), requiring measurement of prisoners by the Bertillon system, applies to United States prisoners at the Massachusetts Reformatory.

In reply to your request for my opinion upon the question whether United States prisoners at the Massachusetts Reformatory are included in the requirement for measurement by the Bertillon system, under Stat. 1890, chap. 316, I have the honor to say that, as the Legislature undoubtedly has power to apply the requirement to such prisoners, and as they are not expressly excepted from the operation of the act, and as I find nothing in it to indicate any purpose of the Legislature that they should be excepted, it is, in my opinion, to be applied to them. This conclusion is strengthened by the fact that, in other statutes bearing upon the confinement of United States prisoners in our prisons, they have sometimes been made the subject of express exception, and the absence of any such expression in this case has some tendency to indicate the purpose of the Legislature to make no such exception. — *Op. Atty.-Gen.*, I., 27 (1891).

PAROLE LAW. CONVICT. CONSOLIDATION OF SENTENCES.

A convict was committed to the State Prison upon a sentence of ten years. Later in the same year he was sentenced for another offence to a term of five years, to take effect from and after the expiration of the sentence he was then serving. The two sentences cannot be added together

and construed as one sentence, for the purpose of bringing the case within the terms of Stat. 1895, chap. 252 (R. L., chap. 225, sect. 114).—*Op. Atty.-Gen.*, I., 324 (1896).

PRISON COMMISSIONERS. VACANCY IN THE BOARD. PAROLE OF PRISONERS.

Pub. Stats., chap. 219, sect. 1 (R. L., chap. 222, sect. 1), provides that there shall be five Commissioners of Prisons (now Prison Commissioners); but if for any reason a vacancy occurs, it is still a lawful Board, and has a right to parole a prisoner from the State Prison, under Stat. 1897, chap. 206, sect. 1 (R. L., chap. 225, sect. 114).—*Op. Atty.-Gen.*, I., 487 (1897).

CONVICT. COMMUTATION OF PUNISHMENT. GOVERNOR AND COUNCIL. SHERIFF. REMOVAL OF PRISONER.

When the Governor and Council have commuted the punishment of a convict, and caused a warrant for the purpose to issue to an officer, their jurisdiction in the matter has ended, and the prisoner is thereafterwards to be held as though the sentence provided for by the order of commutation had been imposed by the court.

Their assent, therefore, to the removal of the prisoner from one jail to another would not give a sheriff any authority to remove her in addition to what he now has by Pub. Stats., chap. 220, sect. 2 (R. L., chap. 224, sect. 5).—*Op. Atty.-Gen.*, I., 516 (1898).

PAROLE LAW. UNITED STATES PRISONERS. PRISON COMMISSIONERS.

The Commissioners of Prisons (now Prison Commissioners) have no such authority to release prisoners from the State Prison, sentenced there by the United States courts, as they have under the parole laws to release prisoners sentenced there by the State courts.—*Op. Atty.-Gen.*, I., 541 (1898).

PAUPER. DEAD BODY. PROMOTION OF ANATOMICAL SCIENCE.

By Stat. 1898, chap. 479 (R. L., chap. 77), an act relative to the promotion of anatomical science, the officials named therein must surrender to medical schools, upon proper application and the giving of a bond as prescribed, such bodies as would otherwise be buried at the public expense.

After such application, the officials cannot bury the body at the public expense.

The terms of the bond, as required by the statute, prohibit the return of such bodies. — *Op. Atty.-Gen.* (1899).

COUNTY ACCOUNTS. OFFICERS. SERVING OF WARRANTS. FEES.

Officers serving warrants are entitled to charge for services and expenses. The charge for services comprises fifty cents for each person upon whom service is made and an allowance for "travel." Expenses are limited to actual and necessary disbursements, and may be charged in addition to the item of constructive travel.

Railroad fares are not included in "travel," and may be charged in addition thereto.

If an officer has charged twice for expenses, the amount may be withheld in any further settlement between him and the paymaster or clerk whose duty it is to pay him.

If an officer knowingly charges for expenses which he did not incur, it constitutes the offence of obtaining money under false pretences. — *Op. Atty.-Gen.* (1899).

RELEASE OF PRISONERS ON PROBATION.

Replying to a question as to the construction of chapter 227, of the Acts of 1902, relative to the release of prisoners on probation, the assistant attorney-general wrote as follows under date of Dec. 10, 1902: "You state that a

prisoner was sentenced to two years' imprisonment but that under section 113 of chapter 225 of the Revised Laws, he has become entitled, through good behavior, to a deduction of three days per month, and ask whether the six months' time is to be reckoned from the expiration of the sentence before or after making the deduction. I have the honor to advise that while the legislative intent is not free from doubt, in my opinion, the time is to be reckoned after making the deduction for good behavior. The other construction would be unequal in its application to different prisoners being of less effect in case of a well behaved prisoner serving a long term than in case of such a prisoner serving a brief term."

**LIST OF STATE AND COUNTY PRISONS (EXCEPTING SCHOOLS FOR JUVENILE OFFENDERS).\***

*State Institutions.*

| NAME OF PRISON.                          | Location<br>and P. O. Address.     | Name and Title of<br>Principal Officer.    |
|--|------------------------------------|--|
| State Prison, . . . . .                  | Boston; P. O., Charlestown, .      | Benjamin F. Bridges,<br>Warden.            |
| Massachusetts Reformatory, . . .         | Concord; P. O., Concord Junction.  | Charles S. Hart, Superintendent.           |
| Reformatory Prison for Women, . .        | Sherborn; P. O., South Framingham. | Mrs. Frances A. Morton,<br>Superintendent. |
| State Farm, . . . . .                    | Bridgewater; P. O., State Farm,    | Hollis M. Blackstone,<br>Superintendent.   |
| Temporary Industrial Camp for Prisoners. | Rutland; P. O., West Rutland, .    | William A. Witham, Superintendent.         |

*Jails and Houses of Correction.*

[Places marked with a † are jails only; those marked with a ‡ are houses of correction only. All others have a jail and house of correction combined.]

| COUNTY.                 | Location<br>and P. O. Address.       | Name of Keeper or<br>Master. |
|-------------------------|--------------------------------------|------------------------------|
| Barnstable, . . . . .   | Barnstable, . . . . .                | George H. Cash.              |
| Berkshire, . . . . .    | Pittsfield, . . . . .                | John Nicholson, Sheriff.     |
| Bristol, . . . . .      | New Bedford, . . . . .               | J. Arthur Taylor.            |
|                         | Taunton,† . . . . .                  | I. Granville Carrier.        |
| Dukes County, . . . . . | Edgartown,† . . . . .                | Eben D. Earle.               |
|                         | Ipswich,† . . . . .                  | Howard G. Lane.              |
| Essex, . . . . .        | Lawrence, . . . . .                  | Charles A. Stillings.        |
|                         | Newburyport,† . . . . .              | Charles L. Ayers.            |
|                         | Salem, . . . . .                     | Sam'l A. Johnson, Sheriff.   |
| Franklin, . . . . .     | Greenfield, . . . . .                | Charles S. Richardson.       |
| Hampden, . . . . .      | Springfield, . . . . .               | Embury P. Clark, Sheriff.    |
| Hampshire, . . . . .    | Northampton, . . . . .               | Jairus E. Clark, Sheriff.    |
| Middlesex, . . . . .    | Cambridge; P. O., East Cambridge.    | John R. Fairbairn, Sheriff.  |
|                         | Lowell,† . . . . .                   | Alvah S. Baker.              |
| Nantucket, . . . . .    | Nantucket, . . . . .                 | Frederick F. Parker.         |
| Norfolk, . . . . .      | Dedham, . . . . .                    | Samuel H. Capen, Sheriff.    |
| Plymouth, . . . . .     | Plymouth, . . . . .                  | Henry S. Porter, Sheriff.    |
| Suffolk, . . . . .      | Boston; Charles Street,† . . .       | Fred H. Seavey, Sheriff.     |
|                         | Boston; Deer Island, Boston Harbor.‡ | James R. Gerrish.            |
| Worcester, . . . . .    | Fitchburg, . . . . .                 | B. D. Dwinnell.              |
|                         | Worcester, . . . . .                 | R. H. Chamberlain, Sheriff.  |

\* The institutions maintained by the State for the imprisonment of juvenile offenders are the Lyman School for Boys at Westborough (to which boys under the age of fifteen years may be committed) and the State Industrial School for Girls at Lancaster (which receives female offenders under the age of seventeen).

BOARD OF PRISON COMMISSIONERS,  
STATE HOUSE, BOSTON.

---

FREDERICK G. PETTIGROVE, *Chairman*,  
MARGARET P. RUSSELL, MARY V. O'CALLAGHAN,  
HENRY PARKMAN, ARTHUR H. WELLMAN,  
*Commissioners.*  
*Secretary,*  
J. WARREN BAILEY.





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